

# 2004 - Health and Welfare Senate Pending Fee Rule (Green)

## ADMINISTRATIVE RULES REVIEW

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#### Legislative Session 2004

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## **2004 - Health and Welfare Senate Pending Fee Rule (Green)**

### **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

#### **16.02.14 - RULES GOVERNING CONSTRUCTION AND OPERATION OF PUBLIC SWIMMING POOLS IN IDAHO**

**DOCKET NO. 16-0214-0301**

#### **NOTICE OF RULEMAKING - PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1003 and 56-1007, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the September 3, 2003, Administrative Bulletin, Volume 03-9, pages 99 and 100.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 56-1007, Idaho Code. Fees being imposed in this chapter have been part of 16.05.05, "Rules Governing Fees for Health and Environmental Operating Permits, Licenses, and Inspection Services" that is being repealed in Docket 16-0505-0301. The fee amount is not being changed but is being moved into IDAPA 16.02.14.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Elke Shaw-Tulloch at (208) 334-5950.

DATED this 26th day of September, 2003.

Sherri Kovach, Program Supervisor  
DHW – Administrative Procedures Section  
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#### **IDAPA 16, TITLE 02, CHAPTER 14**

#### **RULES GOVERNING CONSTRUCTION AND OPERATION OF PUBLIC SWIMMING POOLS IN IDAHO**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 99 and 100.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## **2004 - Health and Welfare Senate Pending Fee Rule (Green)**

### **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

#### **16.02.14 - RULES GOVERNING CONSTRUCTION AND OPERATION OF PUBLIC SWIMMING POOLS IN IDAHO**

##### **DOCKET NO. 16-0214-0301 (FEE RULE)**

##### **NOTICE OF RULEMAKING - PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-1003 and 56-1007, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2003.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rule making:

This chapter of rules is being amended to add substantive sections being repealed in this publication under Docket 16-0505-0301. Fee amounts are being added to Section 032 and a new Section 033 is being added for waiver of fee information.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which the public comment should be addressed.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

The fees in this chapter are fees that have been in IDAPA 16.05.05, "Rules Governing Fees for Health and Environmental Operating Permits, Licenses, and Inspections Services" which is being repealed in this publication under Docket 16-0505-0301. In order to save on publication and duplication of rules, the fees are being moved into IDAPA 16.02.14. The fees will remain the same.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes being added to this chapter are because of a repeal of a chapter of rules which will minimize publication and duplication of rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rules, contact Elke Shaw-Tulloch at (208) 334-5950.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before September 24, 2003.

DATED this 10th day of July, 2003.

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## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

### THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0214-0301

#### 000. **LEGAL AUTHORITY.**

~~Idaho Code~~ Sections 56-1003 and 56-1007, Idaho Code, grants authority to the Board of Health and Welfare to adopt and to the Director, Department of Health and Welfare, to enforce minimum standards of health, safety and sanitation and to establish reasonable fees for services for all public swimming pools within the State. ~~(4-5-00)~~(\_\_\_\_)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 032. **PERMIT FEE AND PLAN REVIEW FEE.**

**01. Fee Amounts.** All applications shall be accompanied by payment of the permit fee ~~specified in the Idaho Department of Health and Welfare Rules, IDAPA 16.05.05, "Rules Governing Fees for Health and Environmental Operating Permits, Licenses, and Inspection Services"~~ of fifty dollars (\$50) annually for each swimming pool. A plan review fee per unit for each swimming pool is one hundred dollars (\$100). ~~(4-5-00)~~(\_\_\_\_)

#### 033. **WAIVER OF FEES.**

Upon written application to the Director of the Department of Health and Welfare, a waiver of a specific fee may be granted to an applicant who is required by these rules to pay the fee. (\_\_\_\_)

**01. Determination Of Good Cause.** Good cause for a waiver must be shown before it is granted by the Director. Good cause may include hardship or extenuating circumstances, as determined by the Director. (\_\_\_\_)

**02. Duration Of Waiver.** If the fee sought to be waived becomes due periodically, the fee may be waived for a designated period of time. (\_\_\_\_)

**03. Limitations.** Granting of a waiver shall not be considered as precedent or be given any force or effect in any other proceeding. (\_\_\_\_)

#### 0334. -- 039. **(RESERVED).**

## **2004 - Health and Welfare Senate Pending Fee Rule (Green)**

### **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

#### **16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM**

##### **DOCKET NO. 16-0612-0301 - (FEE RULE)**

##### **NOTICE OF RULEMAKING - PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-201 through 56-233, Idaho Code.

**DESCRIPTIVE SUMMARY:** The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003 Administrative Bulletin, Volume 03-10, pages 319 through 322.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

The rule is being promulgated in order to implement the three point five percent (3.5%) holdback imposed by the Office of the Governor. Section 56-1007, Idaho Code, authorizes the Department to charge and collect reasonable fees. The fee may be determined by a sliding fee scale, which this rule does.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Cheryl Bowers at (208) 334-5733.

DATED this 29th day of October, 2003.

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#### **IDAPA 16, TITLE 06, CHAPTER 12**

#### **RULES GOVERNING THE IDAHO CHILD CARE PROGRAM**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 319 through 322.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## **2004 - Health and Welfare Senate Pending Fee Rule (Green)**

### **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

#### **16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM**

**DOCKET NO. 16-0612-0301**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-201 through 56-233, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rule making:

This rule is needed in order for the Department to comply with the required three point five percent (3.5%) holdback imposed by the Office of the Governor. It was previously published as a temporary rule in the February, Idaho Administrative Bulletin and there are no changes to the text. The rule change is to increase the sliding fee schedule found in IDAPA 16.06.12.307 by six percent (6%).

In February 2003, the Board of Health and Welfare adopted this rule as a temporary rule with an effective date of January 1, 2003. The temporary rule was published in the Idaho Administrative Bulletin, Volume 03-2, February 5, 2003, pages 17 through 19. With this publication the Department is initiating proposed rulemaking.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which the public comment should be addressed.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger. The rule is being promulgated in order to implement the three point five percent (3.5%) holdback imposed by the Office of the Governor. Section 56-1007, Idaho Code, authorizes the Department to charge and collect reasonable fees. The fee may be determined by a sliding fee scale, which this rule does.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule is necessary to comply with the three point five (3.5%) holdback.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rules, contact Cheryl Bowers at (208) 334-5733.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 22, 2003.

DATED this 14th day of August, 2003.

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## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

DEPARTMENT OF HEALTH AND WELFARE  
The Idaho Child Care Program

Docket No. 16-0612-0301  
Proposed Rulemaking

Pursuant to Section 67-5221(1) this docket is being published as a Proposed Rule.

This docket has been previously published as a Temporary Rule.  
The temporary effective date is January 1, 2003.

The original text of the Temporary Rule was published in the Idaho Administrative  
Bulletin, Volume 03-2, February 5, 2003, pages 17 through 19.

### THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0612-0301

#### 307. SLIDING FEE SCHEDULES.

Eligible families, except TAFI families participating in non-employment TAFI activities, must pay part of their child care costs. (7-1-99)

**01. Poverty Rates.** Poverty rates will be the established rates published annually in the Federal Register. The monthly rate will be calculated by dividing the yearly rate by twelve (12). (7-1-99)

**02. Calculating Family Payment.** Families ~~shall~~ must pay the provider for child care services. Family income for the month of the child care will determine the family share of child care costs. The payment made by the Department will be the allowable local market rate, less the amount calculated using the sliding fee schedule listed in Table 307.03. (7-1-99)( )

#### 03. Maximum Income And Sliding Fee Schedules:

FAMILY CO-PAYMENT REQUIREMENTS - ICCP SLIDING FEE SCHEDULE									
FAMILY SIZE	2	3	4	5	6	7	8	9	10
MONTHLY INCOME	PERCENTAGE OF CHILD CARE COST FAMILY MUST PAY								
\$0 - \$499	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>
\$500 - \$599	<del>51%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>
\$600 - \$699	<del>51%</del>	<del>51%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>
\$700 - \$799	<del>51%</del>	<del>51%</del>	<del>51%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>
\$800 - \$899	<del>4521%</del>	<del>51%</del>	<del>51%</del>	<del>51%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>
\$900 - \$999	<del>4521%</del>	<del>51%</del>	<del>51%</del>	<del>51%</del>	<del>51%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>
\$1,000 - \$1,099	<del>4521%</del>	<del>51%</del>	<del>51%</del>	<del>51%</del>	<del>51%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>
\$1,100 - \$1,199	<del>306%</del>	<del>4521%</del>	<del>51%</del>	<del>51%</del>	<del>51%</del>	<del>51%</del>	<del>47%</del>	<del>47%</del>	<del>47%</del>
\$1,200 - \$1,299	<del>306%</del>	<del>4521%</del>	<del>51%</del>	<del>51%</del>	<del>51%</del>	<del>51%</del>	<del>51%</del>	<del>47%</del>	<del>47%</del>
\$1,300 - \$1,399	<del>606%</del>	<del>4521%</del>	<del>4521%</del>	<del>51%</del>	<del>51%</del>	<del>51%</del>	<del>51%</del>	<del>57%</del>	<del>47%</del>
<del>\$1.357 - \$1.399</del>	<del>100%</del>	<del>21%</del>	<del>21%</del>	<del>11%</del>	<del>11%</del>	<del>11%</del>	<del>11%</del>	<del>7%</del>	<del>7%</del>
\$1,400 - \$1,499	100%	<del>306%</del>	<del>4521%</del>	<del>51%</del>	<del>51%</del>	<del>51%</del>	<del>51%</del>	<del>51%</del>	<del>47%</del>

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

**DEPARTMENT OF HEALTH AND WELFARE**  
**The Idaho Child Care Program**

**Docket No. 16-0612-0301**  
**Proposed Rulemaking**

FAMILY CO-PAYMENT REQUIREMENTS - ICCP SLIDING FEE SCHEDULE									
FAMILY SIZE	2	3	4	5	6	7	8	9	10
MONTHLY INCOME	PERCENTAGE OF CHILD CARE COST FAMILY MUST PAY								
\$1,500 - \$1,599	100%	<del>36%</del>	<del>+1521%</del>	<del>4521%</del>	<del>511%</del>	<del>511%</del>	<del>511%</del>	<del>511%</del>	<del>511%</del>
\$1,600 - \$1,699	100%	<del>66%</del>	<del>36%</del>	<del>4521%</del>	<del>511%</del>	<del>511%</del>	<del>511%</del>	<del>511%</del>	<del>511%</del>
\$1,700 - \$1,799	100%	<del>66%</del>	<del>36%</del>	<del>+1521%</del>	<del>4521%</del>	<del>511%</del>	<del>511%</del>	<del>511%</del>	<del>511%</del>
<u>\$1,707 - \$1,799</u>	<u>100%</u>	<u>100%</u>	<u>36%</u>	<u>21%</u>	<u>21%</u>	<u>11%</u>	<u>11%</u>	<u>11%</u>	<u>11%</u>
\$1,800 - \$1,899	100%	100%	<del>36%</del>	<del>4521%</del>	<del>4521%</del>	<del>511%</del>	<del>511%</del>	<del>511%</del>	<del>511%</del>
\$1,900 - \$1,999	100%	100%	<del>36%</del>	<del>36%</del>	<del>+1521%</del>	<del>511%</del>	<del>511%</del>	<del>511%</del>	<del>511%</del>
\$2,000 - \$2,099	100%	100%	<del>66%</del>	<del>36%</del>	<del>4521%</del>	<del>4521%</del>	<del>511%</del>	<del>511%</del>	<del>511%</del>
<u>\$2,057 - \$2,099</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>36%</u>	<u>21%</u>	<u>21%</u>	<u>11%</u>	<u>11%</u>	<u>11%</u>
\$2,100 - \$2,199	100%	100%	100%	<del>36%</del>	<del>4521%</del>	<del>4521%</del>	<del>511%</del>	<del>511%</del>	<del>511%</del>
\$2,200 - \$2,299	100%	100%	100%	<del>36%</del>	<del>4521%</del>	<del>+1521%</del>	<del>4521%</del>	<del>511%</del>	<del>511%</del>
\$2,300 - \$2,399	100%	100%	100%	<del>66%</del>	<del>36%</del>	<del>4521%</del>	<del>4521%</del>	<del>511%</del>	<del>511%</del>
\$2,400 - \$2,499	100%	100%	100%	<del>66%</del>	<del>36%</del>	<del>4521%</del>	<del>+1521%</del>	<del>4521%</del>	<del>511%</del>
<u>\$2,407 - \$2,499</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>36%</u>	<u>21%</u>	<u>21%</u>	<u>21%</u>	<u>11%</u>
\$2,500 - \$2,599	100%	100%	100%	100%	<del>36%</del>	<del>4521%</del>	<del>4521%</del>	<del>4521%</del>	<del>511%</del>
\$2,600 - \$2,699	100%	100%	100%	100%	<del>66%</del>	<del>36%</del>	<del>4521%</del>	<del>+1521%</del>	<del>4521%</del>
\$2,700 - \$2,799	100%	100%	100%	100%	<del>66%</del>	<del>36%</del>	<del>4521%</del>	<del>4521%</del>	<del>4521%</del>
<u>\$2,757 - \$2,799</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>36%</u>	<u>21%</u>	<u>21%</u>	<u>21%</u>
\$2,800 - \$2,899	100%	100%	100%	100%	100%	<del>36%</del>	<del>4521%</del>	<del>4521%</del>	<del>+1521%</del>
\$2,900 - \$2,999	100%	100%	100%	100%	100%	<del>36%</del>	<del>36%</del>	<del>4521%</del>	<del>4521%</del>
\$3,000 - \$3,099	100%	100%	100%	100%	100%	<del>66%</del>	<del>36%</del>	<del>4521%</del>	<del>4521%</del>
\$3,100 - \$3,199	100%	100%	100%	100%	100%	<del>66%</del>	<del>36%</del>	<del>3621%</del>	<del>4521%</del>
<u>\$3,107 - \$3,199</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>36%</u>	<u>21%</u>	<u>21%</u>
\$3,200 - \$3,299	100%	100%	100%	100%	100%	100%	<del>36%</del>	<del>36%</del>	<del>4521%</del>
\$3,300 - \$3,399	100%	100%	100%	100%	100%	100%	<del>66%</del>	<del>36%</del>	<del>4521%</del>
\$3,400 - \$3,499	100%	100%	100%	100%	100%	100%	<del>66%</del>	<del>36%</del>	<del>3621%</del>
<u>\$3,457 - \$3,499</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>36%</u>	<u>21%</u>
\$3,500 - \$3,599	100%	100%	100%	100%	100%	100%	100%	<del>36%</del>	<del>36%</del>
\$3,600 - \$3,699	100%	100%	100%	100%	100%	100%	100%	<del>36%</del>	<del>36%</del>
\$3,700 - \$3,799	100%	100%	100%	100%	100%	100%	100%	<del>66%</del>	<del>36%</del>
\$3,800 - \$3,899	100%	100%	100%	100%	100%	100%	100%	<del>66%</del>	<del>36%</del>
<u>\$3,807 - \$3,899</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>36%</u>

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

**DEPARTMENT OF HEALTH AND WELFARE**  
**The Idaho Child Care Program**

**Docket No. 16-0612-0301**  
**Proposed Rulemaking**

FAMILY CO-PAYMENT REQUIREMENTS - ICCP SLIDING FEE SCHEDULE									
FAMILY SIZE	2	3	4	5	6	7	8	9	10
MONTHLY INCOME	PERCENTAGE OF CHILD CARE COST FAMILY MUST PAY								
\$3,900 - \$3,999	100%	100%	100%	100%	100%	100%	100%	100%	3 <del>06</del> %
\$4,000 - \$4,099	100%	100%	100%	100%	100%	100%	100%	100%	6 <del>06</del> %
\$4,100 - \$4,1 <del>99</del> <u>56</u>	100%	100%	100%	100%	100%	100%	100%	100%	6 <del>06</del> %
\$4,2 <del>00</del> <u>157</u> - \$4,299	100%	100%	100%	100%	100%	100%	100%	100%	100%
* Maximum income for ICCP benefits: \$1,356 for household of 2 \$1,706 for household of 3 \$2,056 for household of 4 \$2,406 for household of 5 \$2,756 for household of 6 \$3,106 for household of 7 \$3,456 for household of 8 \$3,806 for household of 9 \$4,156 for household of 10									

\*Maximum Income (Or Eligibility For Payment) Based On 150% Of Poverty (1998 Poverty Tables).

(~~7-1-99~~)(\_\_\_\_)

# 2004 - Health and Welfare Senate Pending Fee Rule (Green)

## IDAPA 22 - BOARD OF MEDICINE

### 22.01.03 - RULES OF THE LICENSURE OF PHYSICIAN ASSISTANTS

#### DOCKET NO. 22-0103-0301

#### NOTICE OF RULEMAKING - PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1806 (2) and 54-1807 (2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule changes the provision for the delegation of services agreement to include a listing of the physician assistant's and graduate physician assistant's training, experience and education, defines the patient services to be delegated and includes the responsibility of the licensees and supervising physician to maintain a current delegation of services agreement. The proposed rule changes clarify the scope of practice to include only those duties and responsibilities delegated to them by the supervising physician and in accordance with the delegation of services agreement; includes a provision for supervision while providing disaster or emergency care; and revises the provision for license/registration issuance, renewal, cancellation, reinstatement. The proposed rule includes a provision for a Physician Assistant Committee to be created and made a part of the Idaho State Board of Medicine, pursuant to adoption of Resolution 01-093.

Pursuant to negotiated rulemaking and public comment, the change between the text of the proposed rule change and the text of the pending rule provides for further clarification of the scope of practice, delegation of services agreement, practice standards, and the grounds for discipline. The primary reason for the change was to assure the public health, safety and welfare in the state by the licensure and regulation of physician assistants and graduate physician assistants. The specific reason for the change in the scope of practice was to clarify that administration of local anesthetics, injected subcutaneously, digital blocks, or the application of topical anesthetics is under the supervision of a licensed medical physician. The change also makes clear that physician assistants and graduate physician assistants shall not administer or monitor general or regional block anesthesia during diagnostic tests, surgery, or obstetric procedures. The reason for the change in the delegation of services agreement was to provide for the prior review and approval by the Board of specialized procedures requested to be provided by licensees and provide that the supervising physician may be required to provide written information, which will include his affidavit attesting to the licensee's qualifications and clinical abilities to perform the specific procedures. The reason for the change in the practice standards was to elucidate the supervision ratios that were provided in the definitions section. The reason for the change in the grounds for discipline was to delete inclusion of registered physician assistant trainees as the responsible training facility is best able to address any relevant issues or problems.

Pursuant to Section 67-5222(1), Idaho Code, the Board of Medicine afforded all interested persons reasonable opportunity to submit data, views and arguments, orally and in writing, prior to adoption or amendment of this rule. This pending rule varies in content from that which was originally proposed to address the issues presented in the submitted data, views and arguments, protect legal interests of the various professions, and promote public health, safety, and welfare. These changes have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

Pursuant to Section 67-5227, Idaho Code, this pending rule varies in content from that which was originally proposed but the subject matter remains the same, the pending rule is the logical outgrowth of the proposed rule, the original notice was written so as to assure that members of the public were reasonably notified of the subject of the Board of Medicine's action, and the members of the public were reasonably able from that notification to determine whether their interests could be affected by the Board of Medicine's action on that subject. These changes have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

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**BOARD OF MEDICINE**  
**Licensure of Physician Assistants**

**Docket No. 22-0103-0301**  
**Pending Fee Rule**

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Pursuant to Section 67-5228, Idaho Code, typographical, transcriptional, and/or clerical corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 349 through 360.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-1807(2), Idaho Code.

The fee schedule has been broadened, however, there will be no increase in fees. The rule changes provide for inactive licensure and have designated a fee less than that for an active license.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Nancy M. Kerr, Executive Director, Idaho State Board of Medicine at (208) 327-7000.

DATED this 18th day of November, 2003.

Nancy M. Kerr  
Executive Director  
Idaho State Board of Medicine  
1755 Westgate Drive, Suite 140  
Boise, Idaho 83704  
P.O. Box 83720  
Boise, Idaho 83720-0058  
Telephone: (208) 327-7000  
Fax: (208) 327-7005

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### IDAPA22, TITLE 01, CHAPTER 03

#### RULES OF THE LICENSURE OF PHYSICIAN ASSISTANTS

**There are substantive changes from the proposed rule text.**

**Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.**

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 349 through 360.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

**BOARD OF MEDICINE**  
**Licensure of Physician Assistants**

**Docket No. 22-0103-0301**  
**Pending Fee Rule**

*Language That Has Been Deleted From The Original Proposed Rule  
Has Been Removed And New Language Is Shown In Italics*

### THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 22-0103-0301

#### **SECTION 000 (Entire Section)**

##### **000. LEGAL AUTHORITY.**

Pursuant to Idaho Code Section 54-1806(2), the Idaho State Board of Medicine is authorized to promulgate rules to govern activities of persons ~~employed licensed under these rules to practice as physician assistants by and graduate physician assistants under the supervision of~~ persons licensed to practice medicine and surgery or osteopathic medicine and surgery in Idaho. (3-19-99)( )

#### **SUBSECTIONS 010.02 and 010.04 (Partial Section)**

##### **010. DEFINITIONS.**

**02. Approved Program.** A course of study for the education and training of physician assistants which is ~~approved~~ accredited by the Committee on Allied Health Education and Accreditation, ~~or the Commission on Accreditation of Allied Health Education Programs, the Accreditation Review Commission on Education for Physician Assistants (ARC-PA) or equivalent agency recognized by the Board as recommended by the Committee.~~ (3-19-99)( )

**064. Delegation Of Services (DOS) Agreement.** A written document mutually agreed upon and signed and dated by the licensed physician assistant or graduate physician assistant and supervising physician that defines the working relationship and delegation of duties between the supervising physician and the ~~physician assistant licensee~~ as specified by Board rule. The Board ~~of Medicine may shall~~ review the written delegation of services agreement; and may review job descriptions, policy statements, or other documents that define the responsibilities of the physician assistant or graduate physician assistant in the practice setting, and may require such changes as needed to achieve compliance with these rules, and to safeguard the public. (3-19-99)( )

#### **SUBSECTIONS 028.01.b. and 028.01.b. (Partial Section)**

##### **028. SCOPE OF PRACTICE.**

**01. Physical Examination.** ~~A physician assistant may evaluate the physical and psychosocial health status through a comprehensive health history and physical examination. This may include the performance of pelvic examinations and pap smears; and~~ **Scope.** The scope of practice of physician assistants and graduate physician assistants shall be defined in the delegation of services and may include a broad range of diagnostic, therapeutic and health promotion and disease prevention services. ( )

**b.** The scope of practice may include prescribing, administering, and dispensing of medical devices and drugs, including the administration of a local anesthetic injected subcutaneously, digital blocks, or the application of topical anesthetics, while working under the supervision of a licensed medical physician. Physician assistants and graduate physician assistants shall not administer or monitor general or regional block anesthesia

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

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### BOARD OF MEDICINE Licensure of Physician Assistants

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during diagnostic tests, surgery, or obstetric procedures. ( )

d. A supervising physician shall not supervise more than a total of three (3) physician assistants or graduate physician assistants contemporaneously. The Board, however, may authorize a supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. An alternate supervising physician shall not supervise more than three (3) physician assistants or graduate physician assistants contemporaneously. The Board, however, may authorize an alternate supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. ( )

### **SUBSECTIONS 030.03., 030.03.c., and 030.03.c.iii. (Partial Section)**

#### **030. PRACTICE STANDARDS.**

**043. Delegation Of Services Agreement.** Each licensed physician assistant and graduate physician assistant shall maintain a current copy of a Delegation of Services (DOS) Agreement between the physician assistant licensee and each of his ~~or her~~ supervising physicians. The delegation of services agreement, made upon a form provided by the Board, shall include a listing of the licensee's training, experience and education, and defines the patient services to be delegated. It is the responsibility of the licensee and supervising physician to maintain a current delegation of services agreement. All specialized procedures that need prior review and approval by the Board will be listed on the delegation of services agreement form supplied by the Board. Prior to provision, all licensees requesting to provide any of the listed services will be required to send their delegation of services agreement to the Board for approval. The Board may require the supervising physician to provide written information, which will include his affidavit attesting to the licensee's qualifications and clinical abilities to perform the specific procedures listed in the delegation of services agreement. This agreement shall not be sent to the Board, but and must be maintained on file at each practice location in which the physician assistant is practicing and at the address of record of the supervising physician. The Committee will review this agreement in conjunction with and make recommendations to the Board. The Board may require such changes as needed to achieve compliance with this chapter and Title 54, Chapter 18, Idaho Code, and to safeguard the public. This agreement shall be made immediately available to the Board upon request and shall include: (3-19-99)( )

c. The written plans and methods to be used to ensure responsible direction and control of the activities of and patient services rendered by the physician assistant licensee which shall provide for: (3-19-99)( )

iii. Periodic review of a representative sample of records and a periodic review of the patient services being provided by the physician assistant licensee. This review shall also include an evaluation of adherence to the delegation of services agreement; (3-19-99)( )

### **SUBSECTION 036.02 (Partial Section)**

#### **036. GRADUATE PHYSICIAN ASSISTANT.**

**02. Licensure Prior to College Baccalaureate Degree - Board Consideration.** Registration Licensure as a graduate physician assistant may also be considered by the Board upon application made to the Board on forms supplied by the Board and payment of the prescribed fee when: (3-19-99)( )

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

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### BOARD OF MEDICINE Licensure of Physician Assistants

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#### SUBSECTIONS 037.01, 037.02., 037.02.c., 037.02.e. through 037.02.i. (Partial Section)

#### 037. ~~TERMINATION OF APPROVAL AND~~ DISCIPLINARY PROCEEDINGS AND NOTIFICATION OF CHANGE.

**01. Discipline.** Every person licensed as a physician assistant or graduate physician assistant is subject to discipline pursuant to the procedures and powers established by and set forth in Section 54-1806A, Idaho Code and the Administrative Procedures Act. (3-19-99)( )

**02. Grounds For Discipline.** In addition to the grounds for discipline set forth in Section 54-1814, Idaho Code; and IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho," Section 101, persons licensed ~~as physician assistants under these rules~~ are subject to discipline upon the following grounds ~~the physician assistant if that person:~~ (3-19-99)( )

**c.** ~~The physician assistant has p~~Performed a task or tasks beyond the scope of activities allowed by Section 028; (3-19-99)( )

**e.** ~~The physician assistant had d~~Demonstrated manifest incapacity to carry out the functions of a physician assistant; or graduate physician assistant; (3-19-99)( )

**f.** ~~The physician assistant has f~~Failed to complete or maintain a current copy of the ~~D~~delegation of ~~S~~services Agreement as specified by ~~Subsection 030-04;~~ (3-19-99)( )

**g.** ~~The physician assistant has f~~Failed to notify the Board of a change or addition of a supervising or alternate supervising physician within two (2) weeks of the change as specified by Subsection 037.03; (3-19-99)( )

**h.** Aided or abetted a person not licensed in this state who directly or indirectly performs activities requiring a license; ( )

**i.** Failed to report to the Board any known act or omission of a licensee, applicant, or any other person, which violates any provision of these rules; or ( )

#### SECTION 053 (Entire Section)

#### 053. DELEGATION OF SERVICES AGREEMENT.

Within one hundred ~~and~~ twenty (120) days of the effective date of these rules, all currently licensed physician assistants and graduate physician assistants shall have a written delegation of services agreement as specified in ~~IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants," Subsection 030-04~~ of these rules. (3-19-99)( )

# **2004 - Health and Welfare Senate Pending Fee Rule (Green)**

## **IDAPA 22 - BOARD OF MEDICINE**

### **22.01.03 - RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS**

#### **DOCKET NO. 22-0103-0301 (FEE RULE)**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1806 (2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These proposed rules change the provision for the delegation of services agreement to include a listing of the physician assistant's and graduate physician assistant's training, experience and education and define the patient services to be delegated and the responsibility of the physician assistant or graduate physician assistant and supervising physician to maintain a current delegation of services agreement. The proposed rule changes clarify the scope of practice to include only those duties and responsibilities delegated to them by the supervising physician and in accordance with the delegation of services agreement; include a provision for supervision while providing disaster or emergency care; and revise the provision for license/registration issuance, renewal, cancellation, reinstatement. The proposed rules include a provision for a Physician Assistant Committee to be created and made a part of the Idaho State Board of Medicine, pursuant to adoption of Resolution 01-093.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: The fee schedule has been broadened, however, there will be no increase in fees. The rule changes provide for inactive licensure and have designated a fee less than that for an active license.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August, 2003.

Nancy M. Kerr, Executive Director  
Idaho State Board of Medicine  
1755 Westgate Drive  
PO Box 83720, Boise, ID 83720-0058  
(208) 327-7000  
Fax (208) 327-7005

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0103-0301**

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

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### BOARD OF MEDICINE Licensure of Physician Assistants

Docket No. 22-0103-0301  
Proposed Rulemaking

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#### 000. LEGAL AUTHORITY.

Pursuant to Idaho Code Section 54-1806(2), the Idaho State Board of Medicine is authorized to promulgate rules to govern activities of persons ~~employed~~ licensed under these rules to practice as physician assistants ~~by~~ and graduate assistants under the supervision of persons licensed to practice medicine and surgery or osteopathic medicine and surgery in Idaho. (3-19-99)(\_\_\_\_)

#### 001. TITLE AND SCOPE.

**01. Title.** These rules shall be cited as IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants". (3-19-99)

**02. Scope.** Pursuant to Idaho Code, Section 54-1807(2), physician assistants and graduate physician assistants must be licensed with the Board prior to commencement of activities. (3-19-99)(\_\_\_\_)

#### 002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board of Medicine, 1755 Westgate Drive, Suite 140, P.O. Box 83720, Boise, Idaho 83720-0058. (3-15-02)(\_\_\_\_)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 006. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS ~~(Rule 7).~~

The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, ~~Statehouse Mail~~ P.O. Box 83720, Boise, Idaho 83720-0058. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 3727-7005. The Board's office hours for filing documents are 8 a.m. to 5 p.m. (3-15-02)(\_\_\_\_)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 010. DEFINITIONS.

**041. Alternate Supervising Physician.** A physician ~~licensed to practice medicine and surgery or osteopathic medicine and surgery in Idaho who has been designated by the supervising physician and authorized by the Board to supervise the physician assistant~~ registered with the Board, as set forth in IDAPA 22.01.04, "Rules of the Board of Medicine for Registration of Supervising and Directing Physicians," under an agreement as defined in these rules, who is responsible for supervising the physician assistant or graduate physician assistant in the temporary absence of the supervising physician. The alternate supervising physician shall accept full medical responsibility for the performance, practice, and activities of such licensee being supervised. An alternate supervising physician shall not supervise more than three (3) physician assistants or graduate physician assistants contemporaneously. The Board, however, may authorize an alternate supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. (3-19-99)(\_\_\_\_)

**02. Approved Program.** A course of study for the education and training of physician assistants which is ~~approved~~ accredited by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs or the Accreditation Review Commission on Education for Physician Assistants (ARC-PA) or equivalent agency recognized by the Board as recommended by the Committee. (3-19-99)(\_\_\_\_)

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

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### BOARD OF MEDICINE Licensure of Physician Assistants

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**043.** **Board.** The Idaho State Board of Medicine established pursuant to Section 54-1805, Idaho Code.  
(7-1-93)( )

**064.** **Delegation Of Services (DOS) Agreement.** A written document mutually agreed upon, and signed and dated by the licensed physician assistant or graduate physician assistant and supervising physician that defines the working relationship and delegation of duties, between the supervising physician and the ~~physician assistant licensee~~ as specified by Board rule. The delegation of services agreement, made upon a form provided by the Board, shall include a listing of the licensee's training, experience and education, and defines the patient services to be delegated. It is the responsibility of the licensee and supervising physician to maintain a current delegation of services agreement. The Board of Medicine may shall review the written delegation of services agreement, and may review job descriptions, policy statements, or other documents that define the responsibilities of the physician assistant or graduate physician assistant in the practice setting, and may require such changes as needed to achieve compliance with these rules, and to safeguard the public.  
(3-19-99)( )

**05.** **Graduate Physician Assistant.** A person who is a graduate of an approved program for the education and training of physician assistants and who meets all the requirements in this chapter for Idaho licensure, but:  
( )

**a.** Has not yet taken and passed the certification examination and who has been authorized by the Board, as defined in Subsection 036.01 of these rules, to render patient services under the direction of a supervising physician for a period of six (6) months; or  
( )

**b.** Has passed the certification examination but who has not yet obtained a college baccalaureate degree and who has been authorized by the Board, as defined in Subsection 036.02 of these rules, to render patient services under the direction of a supervising physician for a period of not more than five (5) years.  
( )

**06.** **Physician.** A physician who holds a current active license issued by the Board to practice medicine and surgery or osteopathic medicine and surgery in Idaho and is in good standing with no restrictions upon or actions taken against his license.  
( )

**057.** **Physician Assistant.** A person who is a graduate of an approved program and who is qualified by ~~general~~ specialized education, training, experience and personal character, as defined in Section 021 of these rules, and who has been ~~authorized~~ licensed by the Board to render patient services under the direction of a supervising physician.  
(3-19-99)( )

**08.** **Physician Assistant Trainee.** A person who is undergoing training at an approved program as a physician assistant and registered with the Board.  
( )

**09.** **Supervision.** The direction and oversight of the activities of and patient services provided by a physician assistant or graduate physician assistant by a supervising physician who accepts full medical responsibility with respect thereto. The constant physical presence of the supervising or alternate supervising physician is not required as long as the supervisor and such licensee are or can be easily in contact with one another by radio, telephone, or other telecommunication device. The scope and nature of the supervision shall be outlined in a delegation of services agreement, as defined in Subsection 030.03 of these rules.  
( )

**0310.** **Supervising Physician.** A ~~person~~ physician registered by the Board, as set forth in IDAPA 22.01.04, "Rules of the Board of Medicine for Registration of Supervising and Directing Physicians," who is licensed to practice medicine and surgery or osteopathic medicine and surgery in Idaho, and under an agreement as defined in Subsection 030.03 of these rules, who is responsible for the direction and supervision of the activities of and patient services provided by the physician assistant or graduate physician assistant. The supervising physician accepts full medical responsibility for the activities of and patient services provided by such licensee. A supervising physician shall not supervise more than a total of three (3) physician assistants or graduate physician assistants contemporaneously. The Board, however, may authorize a supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety.  
(3-19-99)( )

**011.** **PHYSICIAN ASSISTANT ADVISORY COMMITTEE.**

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

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### BOARD OF MEDICINE Licensure of Physician Assistants

Docket No. 22-0103-0301  
Proposed Rulemaking

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A Physician Assistant Advisory Committee is hereby created and made a part of the Idaho State Board of Medicine, pursuant to adoption of Resolution 01-093. ( )

**01. Committee Appointments.** The Board shall appoint the members of the Physician Assistant Advisory Committee. In making appointments to the Committee, the Board shall give consideration to recommendations made by professional organizations of physician assistants and physicians. If recommendations are not made within sixty (60) days of notification and request, the Board may make appointments of any qualified individuals. In the event of a vacancy in one (1) of the positions, professional organizations may recommend, as soon as practical, at least two (2) and not more than three (3) persons to fill that vacancy. The Board shall appoint, as soon as practical, one (1) person, who shall fill the unexpired term. If such professional organizations do not provide a recommendation, the Board shall appoint a person to the unexpired term. The Board may remove any Committee member for misconduct, incompetency, or neglect of duty after giving the member a written statement of the charges and an opportunity to be heard thereon. The Executive Director of the Idaho State Board of Medicine shall serve as the Executive Director to the Physician Assistant Advisory Committee. ( )

**02. Makeup Of Committee.** The Committee shall consist of three (3) members appointed by the Board. Each member shall be currently licensed as a physician assistant in Idaho and has been actively practicing as a physician assistant in Idaho for three (3) year immediately preceding appointment. Members will serve a term of three (3) years and terms will be staggered. Members may serve two (2) successive terms. The Committee shall elect a chairman from its membership. The Committee shall meet as often as necessary to fulfill its responsibilities. Members will be compensated according to Section 59-509(h), Idaho Code. ( )

**03. Final Decisions.** The Committee shall have no authority to revoke licenses or impose limitations or conditions on licenses issued under this chapter and shall be authorized only to make recommendations to the Board. The Board shall make all final decisions with respect thereto. ( )

**04. Board Affiliation.** The Committee will work in the following areas in conjunction with and make recommendations to the Board and will perform such other duties and functions assigned to the Committee by the Board, including: ( )

- a.** Evaluating the qualifications of applicants for licensure and registration; ( )
- b.** Performing investigations of misconduct and making recommendations regarding discipline; ( )
- c.** Maintaining a list of currently licensed physician assistants and graduate physician assistants in this state; and ( )
- d.** Advising the Board on rule changes necessary to license and regulate physician assistants and graduate physician assistants in this state. ( )

~~0142~~-- 019. (RESERVED).

### 020. APPLICATION.

**01. License Applications.** All applications for licensure as physician assistants and graduate physician assistants shall be made to the Board on forms supplied by the Board and include payment of the prescribed fees. ~~(3-19-99)~~( )

**02. Reapplication.** If more than two (2) years have elapsed since a licensed physician assistant or graduate physician assistant has actively engaged in practice, reapplication to the Board as a new applicant is required. The Board may require evidence of an educational update and close supervision to assure safe and qualified performance. ~~(3-19-99)~~( )

**03. Application Expiration.** An application for licensure that is not granted or license not issued within one (1) year from the date the application is received by the Board shall expire. However, the applicant may make a written request to the Board to consider his application on an individual basis. In its discretion, the Committee

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### BOARD OF MEDICINE Licensure of Physician Assistants

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may make a determination if extraordinary circumstances exist that justify extending the one (1) year time period up to an additional one (1) year. The Committee can recommend to the Board to grant the request for such extension of time. The Board shall make all final decisions with respect thereto. ( )

#### 021. REQUIREMENTS FOR LICENSURE.

01. ~~Baccalaureate Degree~~ **Educational Requirement.** Applicants for licensure shall have completed an approved program as defined in Subsection 010.03 and shall provide evidence of having received a college baccalaureate degree and completed an approved program as defined in Subsection 010.02 from a nationally accredited school with a curriculum approved by the United States Secretary of Education, the Council for Higher Education Accreditation, or both, or from a school accredited by another such agency approved by the Board. (3-19-99)( )

02. **National Certifying Examination.** Satisfactory completion and passage of the certifying examination for physician assistants, administered by the National Commission of Certification of Physician Assistants or such other examinations, which may be written, oral or practical, as the Board may require. (3-19-99)

03. **Personal Interview.** The Board may at its discretion, require the applicant or the supervising physician or both to appear for a personal interview. (3-19-99)

04. **Completion Of Form.** ( )

a. If the applicant is to practice in Idaho, he must submit payment of the prescribed fee and a completed ~~a~~ form provided by the Board indicating: (3-19-99)( )

~~a~~i. The applicant has completed a delegation of services agreement signed by the ~~physician assistant applicant~~, supervising physician and alternate supervising physicians; and (3-19-99)( )

~~b~~ii. The agreement is on file at ~~the Idaho practice sites~~ each practice location and the address of record of the supervising physician and at the central office of the Board; or (3-19-99)( )

~~eb~~. If the applicant is not to practice in Idaho, he must submit payment of the prescribed fee and a completed ~~a~~ form provided by the Board indicating the applicant is not practicing in Idaho and prior to practicing in Idaho, the applicant will meet the requirements of Subsections 021.04.a.i. and 021.04.a.ii. (3-19-99)( )

#### (BREAK IN CONTINUITY OF SECTIONS)

#### 028. SCOPE OF PRACTICE.

01. ~~Physical Examination.~~ A physician assistant may evaluate the physical and psychosocial health status through a comprehensive health history and physical examination. This may include the performance of pelvic examinations and pap smears; and **Scope.** The scope of practice of physician assistants and graduate physician assistants shall be defined in the delegation of services and may include a broad range of diagnostic, therapeutic and health promotion and disease prevention services. ( )

a. The scope of practice shall include only those duties and responsibilities delegated to the licensee by their supervising physician and in accordance with the delegation of services agreement. ( )

b. The scope of practice may include prescribing, administering, and dispensing of medical devices and drugs, including local anesthetics. Before providing patient services requiring specialized training and expertise, such as administering conscious sedation and other anesthetics associated with an operating room setting, the supervising physician shall make a prior written petition to the Board and include his affidavit attesting to the physician assistant's qualifications and clinical ability to perform such patient services. ( )

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**c.** Physician assistants and graduate physician assistants are agents of their supervising physician in the performance of all practice-related activities and patient services. (\_\_\_\_)

**02.** ~~**Screening And Evaluating Practice.**~~ Initiate appropriate laboratory or diagnostic studies, or both, to screen or evaluate the patient's health status and interpret reported information in accordance with knowledge of the laboratory or diagnostic studies, provided such laboratory or diagnostic studies are related to and consistent with the ~~physician assistant's~~ licensee's scope of practice. The scope of practice shall be limited to patient services under the supervision of the supervising physician: (\_\_\_\_)

**a.** Within the education, training and experience of the physician assistant or graduate physician assistant: (\_\_\_\_)

**b.** Consistent with the expertise and regular scope of practice of the supervising physician; and (\_\_\_\_)

**c.** Rendered within the parameters of the laws, rules, and standards at the locations or facilities in which the physician assistant and graduate physician assistant practices. (\_\_\_\_)

**03.** ~~**Minor Illness.**~~ *Diagnose and manage minor illnesses or conditions.* (7-1-93)

**04.** ~~**Manage Care.**~~ *Manage the health care of the stable chronically ill patient in accordance with the medical regimen initiated by the supervising physician.* (7-1-93)

**05.** ~~**Emergency Situations.**~~ *Institute appropriate care which might be required to stabilize a patient's condition in an emergency or potentially life threatening situation until physician consultation can be obtained.* (7-1-93)

**06.** ~~**Surgery.**~~ *The acts of surgery which may be performed by a physician assistant are minor office surgical procedures such as punch biopsy, sebaceous cyst and ingrown toenail removal, cryotherapy for wart removal; assist in surgery with retraction, surgical wound exposure, and skin closure with direct personal supervision of the supervising physician; use non-ablative lasers under supervision; and the repair of lacerations, not involving nerve, tendon, or major vessel.* (3-15-02)

**07.** ~~**Casting.**~~ *Manage the routine care of non-displaced fractures and sprains.* (7-1-96)

**08.** ~~**Hospital Discharge Summary.**~~ *May complete hospital discharge summaries and the discharge summary shall be co-signed by the supervising physician.* (3-19-99)

### 029. CONTINUING EDUCATION REQUIREMENTS.

**01.** **Continuing Competence.** A physician assistant or graduate physician assistant may be required by the Board at any time to demonstrate continuing competence in the performance of any ~~of the tasks for which he has been previously approved~~ practice related activity or patient service. (3-19-99)(\_\_\_\_)

**02.** **Requirements For Renewal.** Every other year, and prior to renewal of each license ~~for that year;~~ as set forth by the expiration date on the face of the certificate, physician assistants and graduate physician assistants will be required to present evidence of having received one hundred (100) hours of continuing medical education over a two-year period. The courses and credits shall be subject to approval of the Board. (3-19-99)(\_\_\_\_)

### 030. PRACTICE STANDARDS.

**01.** **Identification.** The physician assistant, graduate physician assistant and physician assistant trainee must at all times when on duty wear a placard or plate so identifying himself ~~as a physician assistant.~~ (3-19-99)(\_\_\_\_)

**02.** **Advertise.** No physician assistant, graduate physician assistant or physician assistant trainee may advertise or represent himself either directly or indirectly, as a physician. (3-19-99)(\_\_\_\_)

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~~03. **Unauthorized Procedures.** A physician assistant shall not write prescriptions or complete and issue prescription blanks previously signed by any physician; diagnose and manage major illnesses or conditions or manage the health care of unstable or acutely ill or injured patients unless those conditions are minor; or, act as or engage in the functions of a physician assistant when the supervising physician is absent and other physician coverage is not available.~~ (3-19-99)

**043. Delegation Of Services Agreement.** Each licensed physician assistant and graduate physician assistant shall maintain a current copy of a Delegation of Services (DOS) Agreement between the physician assistant licensee and each of his ~~or her~~ supervising physicians. This agreement shall ~~not~~ be sent to the Board, ~~but~~ and must be maintained on file at each practice location in which the physician assistant is practicing and at the address of record of the supervising physician. The Committee will review this agreement in conjunction with and make recommendations to the Board. The Board may require such changes as needed to achieve compliance with this chapter and Title 54, Chapter 18, Idaho Code, and to safeguard the public. This agreement shall be made immediately available to upon forms provided by the Board ~~upon request~~ and shall include: (3-19-99)( )

a. A Documentation of the licensee's education, training, and experience and a listing of the specific activities patient services which will be performed by the physician assistant licensee. (3-19-99)( )

b. The specific locations and facilities in which the physician assistant licensee will function; and (3-19-99)( )

c. The written plans and methods to be used to insure responsible direction and control of the activities ~~of and~~ patient services rendered by the physician assistant licensee which shall provide for: (3-19-99)( )

i. An on-site visit at least monthly; (3-19-99)

ii. Regularly scheduled conferences between the supervising physician and the physician assistant licensee; (3-19-99)( )

iii. ~~Recording of a~~ periodic review of a representative sample of records including, but not limited to, records made from the past six (6) months of the review and a periodic review of the patient services being provided by the physician assistant licensee. This review shall also include an evaluation of adherence to the delegation of services agreement; (3-19-99)( )

iv. Availability of the supervising physician to the physician assistant licensee in person or by telephone and procedures for providing backup ~~for the physician assistant~~ and supervision in emergency situations; and (3-19-99)( )

v. Procedures for addressing situations outside the scope of practice of the physician assistant licensee. (3-19-99)( )

d. The drug categories or specific legend drugs and controlled drugs, Schedule II through V that will be prescribed provided that the legend drugs and controlled drugs shall be consistent with the regular prescriptive practice of the supervising physician. (3-15-02)

**054. On-Site Review.** The Board, by and through its designated agents, is authorized ~~and empowered~~ to conduct on-site reviews of the activities of physician assistants or graduate physician assistants and the locations and facilities in which the physician assistant licensees practices at such times as the Board deems necessary. (3-19-99)( )

**031. PARTICIPATION IN DISASTER AND EMERGENCY CARE.**

A physician assistant or graduate physician assistant licensed in this state or licensed or authorized to practice in any other state of the United States or currently credentialed to practice by a federal employer who is responding to a need for patient services created by an emergency or a state or local disaster (not to be defined as an emergency situation which occurs in the place of one's employment) may render such patient services that they are able to provide without supervision as it is defined in this chapter, or with such supervision as is available. Any physician who supervises a physician assistant or graduate physician assistant providing patient services in response to such an emergency or

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state or local disaster shall not be required to meet the requirements set forth in this chapter for a supervising physician. ( )

**0342. -- 035. (RESERVED).**

#### **036. GRADUATE PHYSICIAN ASSISTANT.**

**01. Licensure Prior To Certification Examination - Board Consideration.** Any person who has graduated from an approved program and meets all Idaho requirements, including achieving a college baccalaureate degree, but has not yet taken and passed the certification examination, may be ~~licensed with~~ considered by the Board for licensure as a graduate physician assistant. ~~Such license shall automatically be canceled upon receipt of the certification examination score if the graduate physician assistant fails to pass the certifying examination for six (6) months when:~~ (3-19-99)( )

**a.** An application for licensure as a graduate physician assistant has been submitted to the Board on forms supplied by the Board and payment of the prescribed fee. ( )

**b.** The applicant promptly notifies the Board within ten (10) business days of receipt of the national certification examination results. ( )

**c.** After the graduate physician assistant has passed the certification examination, the Board must receive verification of national certification directly from the certifying entity. Once the verification is received by the Board, the graduate physician assistant's license will be converted to a permanent license and he may apply for prescribing authority pursuant to Section 042 of these rules. ( )

**d.** The applicant who has failed the certification examination one (1) time, may petition the Board for a one-time extension of his graduate physician assistant license for an additional six (6) months. ( )

**e.** If the graduate physician assistant fails to pass the certifying examination on two (2) separate occasions, the graduate physician assistant's license shall automatically be canceled upon receipt of the second failing certification examination score. ( )

**f.** The graduate physician assistant applicant shall agree to execute an authorization for the release of information, attached to his application as Exhibit A, authorizing the Board or its designated agents, having information relevant to the application, including but not limited to the status of the certification examination, to release such information, as necessary, to his supervising physician. ( )

**02. Licensure Prior to College Baccalaureate Degree - Board Consideration.** Registration Licensure as a graduate physician assistant may also be considered ~~by the Board~~ upon application for licensure made to the Board on forms supplied by the Board and payment of the prescribed fee when: (3-19-99)( )

**a.** All application requirements have been met as set forth in Subsection 021-04, except receipt of documentation of a college baccalaureate degree. A college baccalaureate degree from a nationally accredited school with a curriculum approved by the United States Secretary of Education, the Council for Higher Education Accreditation, or both, or from a school accredited by another such agency approved by the Board shall be completed within five (5) years of initial licensure in Idaho; and (7-1-93)( )

**b.** A personal interview with the applicant or the supervising physician or both may be required and will be conducted by a designated member of the Board; and (3-19-99)( )

**c.** A plan shall be submitted with the application and shall be approved by the Board for the completion of the college baccalaureate degree. (7-1-96)( )

**03. No Prescribing Authority.** Physician assistants operating under a graduate physician assistant license shall not be entitled to ~~write any~~ issue any written or oral prescriptions and shall be required to have a weekly record review by their supervising physician. (3-19-99)( )

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#### 037. ~~TERMINATION OF APPROVAL AND~~ DISCIPLINARY PROCEEDINGS AND NOTIFICATION OF CHANGE.

01. **Discipline.** Every person licensed as a physician assistant or graduate physician assistant or registered as physician assistant trainee is subject to discipline pursuant to the procedures and powers established by and set forth in Section 54-1806A, Idaho Code and the Administrative Procedures Act. (3-19-99)(\_\_\_\_)

02. **Grounds For Discipline.** In addition to the grounds for discipline set forth in Section 54-1814, Idaho Code; and IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho," Section 101, persons licensed ~~as physician assistants or registered under these rules~~ are subject to discipline upon the following grounds ~~the physician assistant~~ if that person: (3-19-99)(\_\_\_\_)

a. ~~The physician assistant h~~Held himself ~~or herself~~ out, or permitted another to represent him, ~~or her~~ to be a licensed physician; (3-19-99)(\_\_\_\_)

b. ~~The physician assistant h~~Had in fact performed otherwise than at the discretion and under the supervision of a physician licensed by and registered with the Board; (3-19-99)(\_\_\_\_)

c. ~~The physician assistant has p~~Performed a task or tasks beyond the scope of activities allowed by Section 028. (3-19-99)(\_\_\_\_)

d. ~~The physician assistant i~~Is a habitual or excessive user of intoxicants or drugs; (3-19-99)(\_\_\_\_)

e. ~~The physician assistant had d~~Demonstrated manifest incapacity to carry out the functions of a physician assistant, graduate physician assistant, or physician assistant trainee. (3-19-99)(\_\_\_\_)

f. ~~The physician assistant has f~~Failed to complete or maintain a current copy of the ~~D~~delegation of ~~S~~services ~~A~~greement as specified by Subsection 030.043. (3-19-99)(\_\_\_\_)

g. ~~The physician assistant has f~~Failed to notify the Board of a change or addition of a supervising or alternate supervising physician within two (2) weeks of the change as specified by Subsection 037.03. (3-19-99)(\_\_\_\_)

h. Aided or abetted a person not licensed in this state who directly or indirectly performs activities requiring a license. (\_\_\_\_)

i. Failed to report to the Board any known act or omission of a licensee, applicant, or any other person, which violates any provision of these rules. (\_\_\_\_)

j. Interfered with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding, investigation or other legal action. (\_\_\_\_)

03. **Notification Of Change Or Addition Of Supervising Or Alternate Supervising Physician.** A physician assistant or graduate physician assistant must notify the Board within two (2) weeks upon changing supervising physicians or alternate supervising physicians or adding an additional supervising physician ~~must notify the Board~~. Such notification shall include: (3-19-99)(\_\_\_\_)

a. The name, business address and telephone of the new or additional supervising physician or alternate supervising physician(s); (3-19-99)(\_\_\_\_)

b. The name, business address, and telephone number of the physician assistant or graduate physician assistant; and (3-19-99)(\_\_\_\_)

c. Comply with the requirements of Subsection ~~021.04~~ 030.03. (3-19-99)(\_\_\_\_)

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d. All supervising physicians and alternate supervising physicians must comply with the requirements of IDAPA 22.01.04, "Rules of the Board of Medicine for Registration of Supervising and Directing Physicians". ( )

038. -- 040. (RESERVED).

#### 041. PHYSICIAN ASSISTANT TRAINEE.

**01. Registration In Training.** Any person undergoing training at an approved program as a physician assistant must register with the Board as a trainee, and must comply with the rules as set forth herein. All applications for registration shall be made to the Board on forms supplied by the Board and include payment of the prescribed fee. All registrations shall be dependent upon the length of an approved program and shall be issued for a period of not more than two (2) years. All registrations shall expire on the expiration date printed on the face of the certificate and shall become invalid after that date. All applications for an extension of not more than two (2) years of current registration as a physician assistant trainee shall be made to the Board on forms supplied by the Board and include payment of the prescribed fee. (3-19-99)( )

**02. Approved Program.** Notwithstanding any other provision of these rules, a trainee may perform patient services when such services are rendered within the scope of an approved program. (7-1-93)

**03. Registration Fees.** The fee for registration as physician assistant trainee shall be no more than fifty dollars (\$50). The fee for a one (1) time extension of a current registration as physician assistant trainee shall be no more than fifty dollars (\$50). ( )

#### 042. PRESCRIPTION WRITING.

**01. Approval And Authorization Required.** A physician assistant may issue written or oral prescriptions for legend drugs and controlled drugs, Schedule II through V only in accordance with approval and authorization granted by the Board and in accordance with the current delegation of services agreement and shall be consistent with the regular prescriptive practice of the supervising physician. (3-15-02)

**02. Application.** A physician assistant who wishes to apply for prescription writing authority shall submit to the Board an application for such purpose ~~to~~ on forms supplied by the Board of Medicine. In addition to the information contained in the general application for physician assistant approval, the application for prescription writing authority shall include the following information: (3-19-99)( )

**a.** Documentation of all pharmacology course content completed, the length and whether a passing grade was achieved (at least thirty (30) hours). (7-1-93)

**b.** A statement of the frequency with which the supervising physician will review prescriptions written or issued. (7-1-93)( )

**c.** A signed ~~statement~~ affidavit from the supervising physician certifying that, in the opinion of the supervising physician, the physician assistant is qualified to prescribe the drugs for which the physician assistant is seeking approval and authorization. (3-19-99)( )

**d.** The physician assistant to be authorized to prescribe Schedule II through V drugs shall be registered with the Federal Drug Enforcement Administration and the Idaho Board of Pharmacy. (3-15-02)

**03. Prescription Forms.** Prescription forms used by the physician assistant must be printed with the name, address, and telephone number of the physician assistant and of the supervising physician. A physician assistant shall not write prescriptions or complete or issue prescription blanks previously signed by any physician. (3-19-99)( )

**04. Record Keeping.** The physician assistant shall maintain accurate records, accounting for all prescriptions ~~written~~ issued and medication delivered. (3-19-99)( )

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**05. Pharmaceutical Samples.** The physician assistant who has prescriptive authority may request, receive, sign for and distribute professional samples of drugs and devices in accordance with his current delegation of services agreement and consistent with the regular prescriptive practice of the supervising physician. (\_\_\_\_)

#### 043. DELIVERY OF MEDICATION.

**01. Pre-Dispensed Medication.** The physician assistant may legally provide a patient with more than one (1) dose of a medication at sites or at times when a pharmacist is not available. The pre-dispensed medications shall be for an emergency period to be determined on the basis of individual circumstances, but the emergency period will extend only until a prescription can be obtained from a pharmacy. (3-19-99)

**02. Consultant Pharmacist.** The physician assistant shall have a consultant pharmacist responsible for providing the physician assistant with pre-dispensed medication in accordance with federal and state statutes for packaging, labeling, and storage. (3-19-99)

**03. Limitation Of Items.** The pre-dispensed medication shall be limited to only those categories of drug identified in the delegation of services agreement, except a physician assistant may provide other necessary emergency medication to the patient as directed by a physician. (3-19-99)

**04. Exception From Emergency Period.** Physician assistants in agencies, clinics or both, providing family planning, communicable disease and chronic disease services under government contract or grant may provide pre-dispensed medication for these specific services and shall be exempt from the emergency period. A physician assistants in agencies, clinics or both, in remote sites without pharmacies shall be exempt from the emergency period, providing that they must submit an application and obtain formal approval from the Board of Medicine. (3-19-99)(\_\_\_\_)

#### 044. -- 050. (RESERVED).

#### 051. FEES - LICENSE ISSUANCE, RENEWAL, CANCELLATION AND REINSTATEMENT.

All licenses to practice as a physician assistant or graduate physician assistant shall be issued for a period of not more than five (5) years. All licenses shall expire on the expiration date printed on the face of the certificate and shall become invalid after that date unless renewed. The Board shall collect a fee for each renewal year. The failure of any person to renew his license shall not deprive such person of the right to renewal, except as provided for herein and Title 67, Chapter 52, Idaho Code. (\_\_\_\_)

**01. Licensure Fee.** The fee for initial licensure shall be no more than ~~one~~ two hundred twenty dollars (\$220) for a physician assistant; and ~~ten dollars (\$10) for registration as~~ graduate physician assistant ~~trainee~~. (3-18-99)(\_\_\_\_)

**02. License Renewal Fee.** ~~Each license to practice as a physician assistant shall be issued for a period of not less than one (1) year or more than five (5) years. Each license shall set forth its expiration date on the face of the certificate.~~ The Board shall collect a fee of ~~no more than fifty~~ one hundred dollars (~~\$5100~~) for each renewal year of a license. (3-15-02)(\_\_\_\_)

#### 03. License Cancellation. (\_\_\_\_)

**a.** Failure to renew a license to practice as a physician assistant and pay the renewal fee shall cause the license to be canceled. However, ~~a~~ such license can be renewed up to two (2) years following cancellation by payment of past renewal fees, plus a penalty fee of twenty-five dollars (\$25). After two (2) years, ~~it will be necessary to file an original initial~~ application for licensure with payment of the appropriate fee shall be filed with the Board. In addition, the Board may require evidence of an educational update and close supervision to assure safe and qualified performance. (3-15-02)(\_\_\_\_)

**b.** Failure to renew a license to practice as a graduate physician assistant and pay the renewal fee shall cause the license to be canceled. However, such license can be renewed up to six (6) months following cancellation by payment of the past renewal fee, plus a penalty fee of no more than fifty dollars (\$50). After six (6) months, an original application for licensure with payment of the appropriate fee shall be filed with the Board. (\_\_\_\_)

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**04. Inactive License.** ( )

**a.** A person holding a current license issued by the Board to practice as a physician assistant may be issued, upon written application provided by the Board and payment of required fees to the Board, an inactive license on the condition that he will not engage in the provision of patient services as a physician assistant in this state. An initial inactive license fee of no more than one hundred fifty dollars (\$150) shall be collected by the Board. ( )

**b.** Inactive licenses shall be issued for a period of not more than five (5) years and such licenses shall be renewed upon payment of an inactive license renewal fee of no more than one hundred dollars (\$100) for each renewal year. The inactive license certificate shall set forth its date of expiration. ( )

**c.** An inactive license may be converted to an active license to practice as a physician assistant upon written application and payment of required conversion fees of no more than one hundred fifty dollars (\$150) to the Board. The applicant must account for the time during which an inactive license was held and document continuing competence. The Board may, in its discretion, require a personal interview to evaluate the applicant's qualifications. In addition, the Board may require evidence of an educational update and close supervision to assure safe and qualified performance. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**053. DELEGATION OF SERVICES AGREEMENT.**

Within one hundred ~~and~~ twenty (120) days of the effective date of these rules, all currently licensed physician assistants and graduate physician assistants shall have a written delegation of services agreement as specified in *IDAHA 22.01.03, "Rules for the Licensure of Physician Assistants,"* Subsection 030.043 of these rules. ~~(3-19-99)~~( )

**054. -- 999. (RESERVED).**

## **2004 - Health and Welfare Senate Pending Fee Rule (Green)**

### **IDAPA 22 - BOARD OF MEDICINE**

#### **22.01.04 - RULES OF THE BOARD OF MEDICINE FOR REGISTRATION OF SUPERVISING PHYSICIANS**

**DOCKET NO. 22-0104-0301**

#### **NOTICE OF RULEMAKING - PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1806(2), 54-1807(1)(2), 54-1814(17), 54-3902(7), and 54-3903, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rules include additional definitions and provide for a directing physician registered with the Board who is responsible for the athletic training services provided by the athletic trainer and oversees the practice of athletic training. The proposed rules clarify the duties and responsibilities of supervising and directing physicians with regard to overseeing the practice of physician assistants, graduate physician assistants, nurse practitioners, certified nurse-midwives, clinical nurse specialists, interns, externs, residents, and athletic trainers.

Pursuant to public comment and negotiated rulemaking for IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants," and IDAPA 22.01.10, "Rules for the Licensure of Athletic Trainers to Practice in Idaho," the change between the text of the proposed rule change and the text of the pending rule was to clarify the definitions for consistency with other rules and statutes and to elucidate the duties of supervising physicians. The definition for alternate supervising physician was changed to include the provision that the Board may authorize an alternate supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. The reason for the change in the provision for the supervisory responsibility of supervising physicians was to elucidate the supervision ratios that were provided in the definitions section.

Pursuant to Section 67-5222 (1), Idaho Code, the Board of Medicine afforded all interested persons reasonable opportunity to submit data, views and arguments, orally and in writing, prior to adoption or amendment of this rule. This pending rule varies in content from that which was originally proposed to address the issues presented in the submitted data, views and arguments, protect legal interests of the various professions, and promote public health, safety, and welfare. These changes have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

Pursuant to Section 67-5227, Idaho Code, this pending rule varies in content from that which was originally proposed but the subject matter remains the same, the pending rule is the logical outgrowth of the proposed rule, the original notice was written so as to assure that members of the public were reasonably notified of the subject of the Board of Medicine's action, and the members of the public were reasonably able from that notification to determine whether their interests could be affected by the Board of Medicine's action on that subject. These changes have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

Pursuant to Section 67-5228, Idaho Code, typographical, transcriptional, and/or clerical corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 361 through 366.

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**BOARD OF MEDICINE**  
**Registration of Supervising Physicians**

**Docket No. 22-0104-0301**  
**Pending Fee Rule**

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**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Sections 54-1807 (1) and (2) and 54-3902 (7), Idaho Code.

The fee schedule has been broadened to include a registration fee for directing physicians, however, there will be no increase in fees.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Nancy M. Kerr, Executive Director, Idaho State Board of Medicine at (208) 327-7000.

DATED this 18th day of November 2003.

Nancy M. Kerr  
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Idaho State Board of Medicine  
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### IDAPA 22, TITLE 01, CHAPTER 04

#### **RULES OF THE BOARD OF MEDICINE FOR REGISTRATION OF SUPERVISING AND DIRECTING PHYSICIANS**

**There are substantive changes from the proposed rule text.**

**Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.**

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 361 through 366.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

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*Language That Has Been Deleted From The Original Proposed Rule  
Has Been Removed And New Language Is Shown In Italics*

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

### THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 22-0104-0301

#### **SECTION 000 (Entire Section)**

##### **000. LEGAL AUTHORITY.**

Pursuant to Sections 54-1807(1)(2), ~~and~~ 54-1814(17), 54-3902(7), and 54-3903, Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules to govern the activities of physicians and osteopathic physicians licensed in Idaho, who supervise the practice of physician assistants, graduate physician assistants, nurse practitioners, certified nurse-midwives, clinical nurse specialists, interns, externs, ~~and~~ residents, and athletic trainers.  
(~~3-19-99~~)( )

#### **SUBSECTIONS 010.02 and 010.03 (Partial Section)**

##### **010. DEFINITIONS.**

**02. Alternate Directing Physician.** A designated Idaho licensed physician, registered with the Board pursuant to this chapter and Title 54, Chapter 39, Idaho Code, who oversees the practice of athletic training and is responsible for the athletic training services provided by the athletic trainer in the temporary absence of the directing physician. ( )

**03. Alternate Supervising Physician.** An Idaho licensed physician who is registered with the Board pursuant to this chapter and who has full responsibility for the medical acts and practice of a physician assistant, graduate physician assistant, nurse practitioner, certified nurse-midwife, or clinical nurse specialist in the temporary absence of the supervising physician. An alternate supervising physician shall not supervise more than three (3) such licensees contemporaneously. The Board, however, may authorize an alternate supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. ( )

an alternate

#### **SUBSECTION 019.03 and 019.05 (Partial Section)**

##### **019. DUTIES OF DIRECTING PHYSICIANS.**

**03. Scope Of Practice.** The directing physician shall ensure the scope of practice of the athletic trainer, as set forth in IDAPA 22.01.10, "Rules for the Licensure of Athletic Trainers to Practice in Idaho," and Section 54-3903, Idaho Code, shall be limited to and consistent with the scope of practice of the directing physician and exclude any independent practice of athletic training by an athletic trainer. ( )

**05. Available Supervision.** The directing physician shall oversee the activities of the athletic trainer and must be available either in person or by telephone to supervise, direct and counsel the athletic trainer. The scope and nature of the direction of the athletic trainer shall be outlined in an athletic training service plan or protocol, as set forth in IDAPA 22.01.10, "Rules for the Licensure of Athletic Trainers to Practice in Idaho," Section 013. ( )

#### **SUBSECTION 020.01b. and 020.04 (Partial Section)**

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

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### BOARD OF MEDICINE Registration of Supervising Physicians

Docket No. 22-0104-0301  
Pending Fee Rule

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#### 020. DUTIES OF SUPERVISING PHYSICIANS.

01. **Responsibilities.** The supervising physician ~~shall be responsible~~ accepts full responsibility for the medical acts of and patient services provided by physician assistants, graduate physician assistants, nurse practitioners, certified nurse-midwives, and clinical nurse specialists and for the supervision of such acts which shall include, but are not limited to: ~~(3-19-99)~~(\_\_\_\_)

b. A Pperiodic review of a representative sample of medical records to evaluate the medical services that are provided. When applicable, this review shall also include an evaluation of adherence to the delegation of services agreement between the physician and physician assistant or graduate physician assistant; and ~~(3-19-99)~~(\_\_\_\_)

04. **Supervisory Responsibility.** A supervising physician or alternate supervising physician shall not supervise more than three (3) physician assistants, graduate physician assistants, nurse practitioners, certified nurse-midwives, or clinical nurse specialists contemporaneously. The Board, however, may authorize a supervising physician or alternate supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. The responsibilities and duties of a supervising physician may not be transferred to a business entity, professional corporation or partnership, nor may they be assigned to another physician without prior notification and Board approval. ~~(7-1-93)~~(\_\_\_\_)

#### SECTION 040 (Entire Section)

##### 040. FEES.

The fee for supervising physician registration will be fifty dollars (\$50) and the annual renewal fee will be twenty-five dollars (\$25); provided however, alternate ~~or substitute~~ supervising physicians shall not be required to pay an annual renewal fee. The fee for directing physician registration will be ten dollars (\$10) and the annual renewal fee will be five dollars (\$5); provided however, alternate directing physicians shall not be required to pay an annual renewal fee. ~~(7-1-93)~~(\_\_\_\_)

## **2004 - Health and Welfare Senate Pending Fee Rule (Green)**

### **IDAPA 22 - BOARD OF MEDICINE**

#### **22.01.04 - RULES OF THE BOARD OF MEDICINE FOR REGISTRATION OF SUPERVISING PHYSICIANS**

##### **DOCKET NO. 22-0104-0301 (FEE RULE)**

##### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1806 (2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These proposed rules include additional definitions and provide for a directing physician registered with the Board who is responsible for the athletic training services provided by the athletic trainer and oversees the practice of athletic training. The proposed rules clarify the duties and responsibilities of supervising and directing physicians with regard to overseeing the practice of physician assistants, graduate physician assistants, nurse practitioners, certified nurse-midwives, clinical nurse specialists, interns, externs, residents, and athletic trainers.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

The fee schedule has been broadened to include a registration fee for directing physicians, however, there will be no increase in fees.

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was not conducted, however, principle issues were addressed during negotiated rulemaking for IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants," and IDAPA 22.01.10, "Rules for the Licensure of Athletic Trainers to Practice in Idaho".

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August, 2003.

Nancy M. Kerr  
Executive Director  
Idaho State Board of Medicine  
1755 Westgate Drive  
PO Box 83720-0058  
(208) 327-7000, Fax (208) 327-7005

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0104-0301**

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

**BOARD OF MEDICINE**  
**Registration of Supervising and Directing Physicians**

**Docket No. 22-0104-0301**  
**Proposed Rulemaking**

### IDAPA 22, TITLE 01, CHAPTER 04

#### **RULES OF THE BOARD OF MEDICINE FOR REGISTRATION OF SUPERVISING AND DIRECTING PHYSICIANS**

##### **000. LEGAL AUTHORITY.**

Pursuant to Sections 54-1807(1)(2), ~~and~~ 54-1814(17), 54-3902(7), and 54-3903, Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules to govern the activities of physicians and osteopathic physicians licensed in Idaho, who supervise the practice of physician assistants, graduate physician assistants, nurse practitioners, certified nurse-midwives, clinical nurse specialists, interns, externs, ~~and~~ residents, and athletic trainers.  
(~~3-19-99~~)( )

##### **001. TITLE AND SCOPE.**

**01. Title.** The rules shall be cited as IDAPA 22.01.04, "Rules of the Board of Medicine for Registration of Supervising and Directing Physicians".  
(~~7-1-93~~)( )

**02. Scope.** These rules govern the activities of physicians and osteopathic physicians licensed in Idaho, who supervise the practice of physician assistants, graduate physician assistants, nurse practitioners, certified nurse-midwives, clinical nurse specialists, interns, externs, residents, and athletic trainers.  
( )

##### **002. ADMINISTRATIVE APPEALS.**

~~This chapter does not provide for appeal of the administrative requirements for agencies. All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General," and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine".~~  
(~~3-19-99~~)( )

##### **003. WRITTEN INTERPRETATIONS.**

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board of Medicine, 1755 Westgate Drive, Suite 140, P.O. Box 83720, Boise, Idaho 83720-0058.  
( )

##### **004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference into this rule.  
( )

##### **005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, P.O. Box 83720, Boise, Idaho 83720-0058. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 327-7005. The Board's office hours for filing documents are 8 a.m. to 5 p.m.  
( )

##### **006. PUBLIC RECORD ACT COMPLIANCE.**

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records  
( )

##### **007. FILING OF DOCUMENTS -- NUMBER OF COPIES.**

All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and ten (10) copies of all documents must be filed with the office of the Board.  
( )

##### **0038. -- 009. (RESERVED).**

##### **010. DEFINITIONS.**

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### BOARD OF MEDICINE Registration of Supervising and Directing Physicians

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**031. Advanced Practice Professional Nurse.** Any person duly licensed as a nurse practitioner, certified nurse-midwife, or clinical nurse specialist pursuant to the applicable Idaho statutes and the applicable rules promulgated by the Idaho State Board of Nursing. (3-19-99)

**02. Alternate Directing Physician.** A designated Idaho licensed physician, registered with the Board pursuant to this chapter and Title 54, Chapter 39, Idaho Code, who oversees the practice of athletic training and is responsible for the athletic training services provided by the athletic trainer in the temporary absence of the directing physician. An alternate directing physician shall not supervise more than three (3) such licensees contemporaneously. ( )

**03. Alternate Supervising Physician.** An Idaho licensed physician who is registered with the Board pursuant to this chapter and who has full responsibility for the medical acts and practice of a physician assistant, graduate physician assistant, nurse practitioner, certified nurse-midwife, or clinical nurse specialist in the temporary absence of the supervising physician. An alternate supervising physician shall not supervise more than three (3) such licensees contemporaneously. ( )

**04. Alternate Supervising Physician For Externs, Interns, And Residents.** A physician licensed to practice medicine and surgery or licensed to practice osteopathic medicine and surgery in Idaho who has been designated by the supervising physician and approved by and registered by the Board to supervise the extern, intern, or resident in the temporary absence of the supervising physician. ( )

**05. Athletic Trainer.** A person who has met the qualifications for licensure as set forth in Title 54, Chapter 39, Idaho Code, is licensed under that chapter, and carries out the practice of athletic training under the direction of a designated Idaho licensed physician, registered with the Board. ( )

**046. Board.** The Idaho State Board of Medicine established pursuant to Section 54-1805, Idaho Code. (7-1-93)( )

**07. Directing Physician.** A designated Idaho licensed physician, registered with the Board pursuant to this chapter and Title 54, Chapter 39, Idaho Code, who oversees the practice of athletic training and is responsible for the athletic training services provided by the athletic trainer. This chapter does not authorize the practice of medicine or any of its branches by a person not so licensed by the Board. ( )

**08. Extern.** Any bona fide student enrolled in an acceptable school of medicine as defined in IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho," Subsection 010.03, who has not received his degree. ( )

**09. Graduate Physician Assistant.** A person who is a graduate of an approved program for the education and training of physician assistants and who meets all the requirements in IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants," for Idaho licensure but has not yet taken and passed the certification examination, and who has been authorized by the Board, as defined in IDAPA 22.01.03, Subsection 036.01, to render patient services under the direction of a supervising physician for a period of six (6) months or has passed the certification examination but who has not yet obtained a college baccalaureate degree, and who has been authorized by the Board, as defined in IDAPA 22.01.03, Subsection 036.02, to render patient services under the direction of a supervising physician for a period of not more than five (5) years. ( )

**10. Intern.** Any person who has completed a course of study at an acceptable school of medicine as defined in IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho," Subsection 010.03, and who is enrolled in a postgraduate medical training program. ( )

**11. Physician.** A physician who holds a current active license issued by the Board to practice medicine and surgery or osteopathic medicine and surgery in Idaho and is in good standing with no restrictions upon or actions taken against his license. ( )

**012. Physician Assistant.** Any person duly licensed with the Board as a physician assistant to render patient services under the direction of a supervising physician registered with the Board, pursuant to the applicable

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### BOARD OF MEDICINE Registration of Supervising and Directing Physicians

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Idaho statutes and the applicable rules promulgated by the Board. ( )

**13. Resident.** Any person who has completed a course of study at an acceptable school of medicine as defined in IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho," Subsection 010.03, and who is enrolled in a postgraduate medical training program. ( )

**14. Supervising Physician.** Any ~~person~~ physician who is ~~duly licensed to practice medicine in Idaho,~~ registered with the Board pursuant to this chapter and who supervises and has responsibility for the medical acts of ~~and patient services provided by~~ a physician assistant, graduate physician assistant, nurse practitioner, certified nurse-midwife, or clinical nurse specialist. ~~"Supervising physician" also includes an alternate or substitute~~ A supervising physician shall not supervise more than a total of three (3) such licensees contemporaneously. The Board, however, may authorize a supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. (3-19-99)( )

**15. Supervising Physician Of Interns, Externs, Or Residents.** Any person approved by and registered with the Board who is licensed to practice medicine and surgery or osteopathic medicine and surgery in Idaho, who signs the application for registration of a extern, intern or resident, and who is responsible for the direction and supervision of their activities. ( )

**011. -- 0198. (RESERVED).**

### **019. DUTIES OF DIRECTING PHYSICIANS.**

**01. Responsibilities.** The directing physician accepts full responsibility for the acts and athletic training services provided by the athletic trainer and oversees the practice of athletic training of the athletic trainer, and for the supervision of such acts which shall include, but are not limited to: ( )

**a.** An on-site visit at least biannually or every semester to personally observe the quality of athletic training services provided; and ( )

**b.** Recording of a periodic review of a representative sample of the records, including, but not limited to, records made from the past six (6) months of the review to evaluate the athletic training services that were provided. ( )

**02. Patient Complaints.** The directing physician shall report to the Board any and all complaints received related to allegations against the athletic trainer, including, but not limited to, the quality and nature of athletic training. ( )

**03. Scope Of Practice.** The directing physician shall ensure the scope practice of the athletic trainer, as set forth in IDAPA 22.01.10, "Rules for the Licensure of Athletic Trainers to Practice in Idaho," and Section 54-3903, Idaho Code, shall be limited to and consistent with the scope of practice of the directing physician and exclude any independent practice of athletic training by an athletic trainer. ( )

**04. Directing Responsibility.** The responsibilities and duties of a directing physician may not be transferred to a business entity, professional corporation or partnership, nor may they be assigned to another physician without prior notification and Board approval. ( )

**05. Available Supervision.** The directing physician shall oversee the activities of the athletic trainer and must always be available either in person or by telephone to supervise, direct and counsel the athletic trainer. The scope and nature of the direction of the athletic trainer shall be outlined in an athletic training service plans or protocols, as set forth in IDAPA 22.01.10, "Rules for the Licensure of Athletic Trainers to Practice in Idaho," Section 013. ( )

**06. Disclosure.** It shall be the responsibility of each directing physician to ensure that each athlete who receives athletic training services is aware of the fact that said person is not a licensed physician. This disclosure

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### BOARD OF MEDICINE Registration of Supervising and Directing Physicians

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requirement can be fulfilled by the use of name tags, correspondence, oral statements, office signs or such other procedures that under the involved circumstances adequately advise the athlete of the education and training of the person rendering athletic training services. ( )

**07. On-Site Review.** The Board, by and through its designated agents, is authorized to conduct on-site reviews of the activities of the directing physicians at the locations and facilities in which the athletic trainer practices at such times as the Board deems necessary. ( )

#### 020. DUTIES OF SUPERVISING PHYSICIANS.

**01. Responsibilities.** The supervising physician ~~shall be responsible~~ accepts full responsibility for the medical acts of and patient services provided by physician assistants, graduate physician assistants, nurse practitioners, certified nurse-midwives, and clinical nurse specialists and for the supervision of such acts which shall include, but are not limited to: (3-19-99)( )

a. An on-site visit at least monthly to personally observe the quality of care provided; ~~and~~ (3-19-99)( )

b. ~~Recording of a~~ periodic review of a representative sample of medical records to evaluate the medical services that are provided. When applicable, this review shall also include an evaluation of adherence to the delegation of services agreement between the physician and physician assistant or graduate physician assistant; and (3-19-99)( )

c. Regularly scheduled conferences between the supervising physician and such licensees. ( )

**02. Patient Complaints.** The supervising physician shall report to ~~either the Board of Medicine or the Board of Nursing any and~~ all patient complaints received against the physician assistant, ~~nurse practitioner, certified nurse-midwife, or clinical nurse specialist~~ or graduate physician assistant which relate to the quality and nature of medical care or patient services rendered. The supervising physician shall report to the Board of Nursing all patient complaints received against the nurse practitioner, certified nurse-midwife, or clinical nurse specialist, that relate to the quality and nature of medical care rendered. (3-19-99)( )

**03. Pre-Signed Prescriptions.** The supervising physician shall not utilize or authorize the physician assistant, nurse practitioner, certified nurse-midwife, or clinical nurse specialist to use any pre-signed prescriptions. (3-19-99)( )

**04. Supervisory Responsibility.** The responsibilities and duties of a supervising physician may not be transferred to a business entity, professional corporation or partnership, nor may they be assigned to another physician without prior notification and Board approval. (7-1-93)( )

**05. Available Supervision.** The supervising physician shall oversee the activities of the nurse practitioner, physician assistant, graduate physician assistant, certified nurse-midwife, or clinical nurse specialist, and must always be available either in person or by telephone to supervise, direct and counsel ~~the nurse practitioner, physician assistant, graduate physician assistant, certified nurse-midwife, or clinical nurse specialist~~ such licensees. The scope and nature of the supervision of the physician assistant and graduate physician assistant shall be outlined in a delegation of services agreement, as set forth in IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants." Subsection 030.03. (3-19-99)( )

**06. Disclosure.** It shall be the responsibility of each supervising physician to ~~insure~~ ensure that each patient who receives the services of a physician assistant, graduate physician assistant, nurse practitioner, certified nurse-midwife, or clinical nurse specialist is aware of the fact that said person is not a licensed physician. This disclosure requirement can be fulfilled by the use of nametags, correspondence, oral statements, office signs or such other procedures that under the involved circumstances adequately advise ~~d~~ the patient of the education and training of the person rendering medical services. (3-19-99)( )

#### 021. ON-SITE REVIEW.

The Board, by and through its designated agents, is authorized ~~and empowered~~ to conduct on-site reviews of the

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### BOARD OF MEDICINE Registration of Supervising and Directing Physicians

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activities of the supervising physicians at the locations and facilities in which the physician assistant, graduate physician assistant, nurse practitioner, certified nurse-midwife, or clinical nurse specialist practices at such times as the Board deems necessary. ~~(3-19-99)~~(\_\_\_\_)

#### **022. DUTIES OF SUPERVISING PHYSICIANS OF INTERNS, EXTERNS, AND RESIDENTS.**

**01. Responsibilities.** The supervising physician is responsible for the direction and supervision of the medical acts and patient services provided by an intern, extern, or resident. The direction and supervision of such activities shall include, but are not limited to: (\_\_\_\_)

**a.** An on-site visit at least monthly to personally observe the quality of care provided; (\_\_\_\_)

**b.** Recording of a periodic review of a representative sample of medical records to evaluate the medical services that are provided; and (\_\_\_\_)

**c.** Regularly scheduled conferences between the supervising physician and the intern, extern, or resident. (\_\_\_\_)

**02. Available Supervision.** The supervising physician shall oversee the activities of the intern, extern, or resident, and must always be available either in person or by telephone to supervise, direct and counsel the intern, extern, or resident. (\_\_\_\_)

**03. Disclosure.** It shall be the responsibility of each supervising physician to ensure that each patient who receives the services of an intern, extern, or resident is aware of the fact that said person is not a licensed physician. This disclosure requirement can be fulfilled by the use of nametags, correspondence, oral statements, office signs, or such other procedures that under the involved circumstances adequately advise the patient of the education and training of the person rendering medical services. (\_\_\_\_)

**04. On-Site Review.** The Board, by and through its designated agents, is authorized to conduct on-site reviews of the activities of the supervising physicians at the locations and facilities in which the intern, extern, or resident practices at such times as the Board deems necessary. (\_\_\_\_)

**0223 -- 029. (RESERVED).**

#### **030. REGISTRATION BY SUPERVISING AND DIRECTING PHYSICIANS.**

**01. Registration And Renewal.** Each supervising, directing and alternate physician must register with the Board and such registration shall be renewed annually. ~~(7-1-93)~~(\_\_\_\_)

**02. Notification.** The supervising and directing physician must notify the Board of any change in the status of any physician assistant, graduate physician assistant, nurse practitioner, certified nurse-midwife, ~~or~~ clinical nurse specialist, or athletic trainer for whom he is responsible, including, but not limited to, changes in location, duties, responsibilities, or supervision, or termination of employment. ~~(3-19-99)~~(\_\_\_\_)

#### **031. DISCIPLINARY ACTION.**

Every person registered as a supervising, directing, or alternate physician in this state is subject to discipline by the Board pursuant to the procedures and powers set forth in Idaho Code, Section 54-1806A for violation of these rules or upon any of the grounds set forth in Idaho Code, Section 54-1814. ~~(7-1-93)~~(\_\_\_\_)

**032. -- 039. (RESERVED).**

#### **040. FEES.**

The fee for all supervising physician registration will be fifty dollars (\$50) and the annual renewal fee will be twenty-five dollars (\$25); provided however, alternate ~~or substitute~~ supervising physicians shall not be required to pay an annual renewal fee. The fee for directing physician registration will be ten dollars (\$10) and the annual renewal fee will be five dollars (\$5); provided however, alternate directing physicians shall not be required to pay an annual renewal fee. ~~(7-1-93)~~(\_\_\_\_)

# 2004 - Health and Welfare Senate Pending Fee Rule (Green)

## IDAPA 22 - BOARD OF MEDICINE

### 22.01.10 - RULES FOR THE REGISTRATION OF ATHLETIC TRAINERS TO PRACTICE IN IDAHO

DOCKET NO. 22-0110-0301

#### NOTICE OF RULEMAKING - PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-3902 (7), 54-3907 and 54-3913 (1), (2) and (4), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule changes are required due to a revision of the Athletic Trainers Practice Act. These rule changes add or change definitions, define the scope of practice of the athletic trainer and define the responsibilities of directing physicians, clarify the requirements for initial application and renewal, provide for provisional licensure, amend the reinstatement process and fees and make other changes to update and clarify the rules.

Pursuant to negotiated rulemaking and public comment, the change between the text of the proposed rule change and the text of the pending rule provides for further clarification of the scope of practice and increases the requirements for the licensure for uncertified athletic trainers currently practicing in Idaho. The scope of practice now includes the provision that an athletic trainer treating or evaluating an athlete with an athletic injury incurred in association with an amateur or recreational sports club or organization shall especially consider the need for a directing physician to subsequently evaluate the athlete and refer for further athletic training services. The reason for the change in the requirements for the licensure for uncertified athletic trainers was to provide for proof of current cardiopulmonary resuscitation certification and, after 2006, require documentation of successful completion of a Board approved medical screening course for all initial renewals.

Pursuant to Section 67-5222 (1), Idaho Code, the Board of Medicine afforded all interested persons reasonable opportunity to submit data, views and arguments, orally and in writing, prior to adoption or amendment of this rule. This pending rule varies in content from that which was originally proposed to address the issues presented in the submitted data, views and arguments, protect legal interests of the various professions, promote the public health, safety, and welfare and assure the availability of high quality athletic trainer services. These changes have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

Pursuant to Section 67-5227, Idaho Code, this pending rule varies in content from that which was originally proposed but the subject matter remains the same, the pending rule is the logical outgrowth of the proposed rule, the original notice was written so as to assure that members of the public were reasonably notified of the subject of the Board of Medicine's action, and the members of the public were reasonably able from that notification to determine whether their interests could be affected by the Board of Medicine's action on that subject. These changes have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

Pursuant to Section 67-5228, Idaho Code, typographical, transcriptional, and/or clerical corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 367 through 380.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-3907, Idaho Code.

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**BOARD OF MEDICINE**  
**Registration of Athletic Trainers**

**Docket No. 22-0110-0301**  
**Pending Fee Rule**

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The fee schedule has been broadened, however, there will be no increase in fees.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Nancy M. Kerr, Executive Director, Idaho State Board of Medicine at (208) 327-7000.

DATED this 18th day of November 2003.

Nancy M. Kerr  
Executive Director  
Idaho State Board of Medicine  
1755 Westgate Drive, Suite 140  
Boise, Idaho 83704  
P.O. Box 83720  
Boise, Idaho 83720-0058  
Telephone: (208) 327-7000  
Fax: (208) 327-7005

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### IDAPA22, TITLE 01, CHAPTER 10

#### **RULES FOR THE ~~REGISTRATION~~ LICENSURE OF ATHLETIC TRAINERS TO PRACTICE IN IDAHO**

**There are substantive changes from the proposed rule text.**

**Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.**

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 367 through 380.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

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*Language That Has Been Deleted From The Original Proposed Rule  
Has Been Removed And New Language Is Shown In Italics*

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**THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 22-0110-0301**

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

### *SUBSECTION 012.02 and 012.03 (Partial Section)*

#### **012. SCOPE OF PRACTICE.**

**02. Referral By Directing Physician.** An athletic injury not incurred in association with an educational institution, professional, amateur, or recreational sports club or organization shall be referred by a directing physician, but only after such directing physician has first evaluated the athlete. *An athletic trainer treating or evaluating an athlete with an athletic injury incurred in association with an amateur or recreational sports club or organization shall especially consider the need for a directing physician to subsequently evaluate the athlete and refer for further athletic training services.* ( )

**03. Limitations Of Scope Of Practice.** The scope of practice of the athletic trainer, as set forth in this chapter and Section 54-3903, Idaho Code, shall be limited to and consistent with the scope of practice of his directing physician. ( )

### *SECTION 013 and SUBSECTION 013.01 (Partial Section)*

#### **013. ATHLETIC TRAINING SERVICE PLAN OR PROTOCOL.**

Each licensed athletic trainer providing athletic training services shall create, upon a form provided by the Board, an athletic training service plan or protocol with his directing physician. This athletic training service plan or protocol shall be reviewed and updated on an annual basis. Each licensed athletic trainer must notify the Board within thirty (30) days of any change in the status of his directing physician. This plan or protocol shall not be sent to the Board, but must be maintained on file at each location in which the athletic trainer is practicing. The Board may review athletic training service plans or protocols, job descriptions, policy statements, or other documents that define the responsibilities of the athletic trainer in the practice setting, and may require such changes as needed to achieve compliance with this chapter, Title 54, Chapter 39, Idaho Code, and to safeguard the public. This plan or protocol shall be made immediately available to the Board upon request. This plan or protocol shall be made immediately available to the Board of Chiropractic Physicians upon request for those athletic trainers whose directing physicians are chiropractic physicians. This plan or protocol shall include: ( )

**01. Listing Of Services And Activities.** A listing of the athletic training services to be provided and specific activities to be performed by the athletic trainer. ( )

### *SUBSECTIONS 014.02, 014.03, 014.05, and 014.07 (Partial Section)*

#### **014. DUTIES AND RESPONSIBILITIES OF DIRECTING PHYSICIANS.**

**02. Availability.** The directing physician must be available either in person or by telephone to supervise, direct, and counsel the athletic trainer. ( )

**03. Verbal Or Written Order.** Prior to providing athletic training services, this direction will be provided by verbal order when the directing physician is present and by written order or by athletic training service plans or protocols, as established by Board rule, when the directing physician is not present. This direction shall include identifying acute athletic injuries or emergencies or sentinel events requiring the athletic trainer to immediately notify or refer to the directing physician. ( )

**05. Disclosure Requirement.** Each directing physician shall ensure that each person who receives the services of an athletic trainer is aware of the fact that said person is an athletic trainer. This disclosure requirement can be fulfilled by the use of nametags, correspondence, oral statements, office signs or such other procedures that

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

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### BOARD OF MEDICINE Registration of Athletic Trainers

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Pending Fee Rule

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under the involved circumstances adequately advise the person of the education and training of the person rendering athletic training services: ( )

**07. Complaints.** The directing physician shall report to the Board of Medicine all complaints received related to allegations against the athletic trainer including, but not limited to, the quality and nature of athletic training services provided. ( )

### *SUBSECTIONS 015.01, 015.03, and 015.04 (Partial Section)*

#### **015. REGISTRATION OF DIRECTING PHYSICIANS LICENSED TO PRACTICE MEDICINE AND SURGERY BY THE BOARD OF MEDICINE.**

**01. Registration And Renewal.** Each directing physician *and* alternate directing physician, licensed to practice medicine and surgery by the Board, must register with the Board and such registration shall be renewed annually. ( )

**03. Notification.** Each directing physician *and* alternate directing physician must notify the Board within thirty (30) days of any change in the status of any athletic trainer for whom he is responsible, including, but not limited to, changes in location, duties, responsibilities, or supervision, or termination of employment. ( )

**04. Fees.** The registration fee for a directing physician shall be no more than *ten* dollars (\$10) and the annual renewal fee shall be no more than five dollars (\$5). Alternate directing physicians shall not be required to pay a registration or renewal fee. ( )

**012Z. -- 019. (RESERVED).**

### *SUBSECTIONS 030.02.a., .02.b.i., .02.b.ii., .02.d., and 030.03 (Partial Section)*

#### **030. APPLICATION FOR REGISTRATION LICENSURE.**

**032. Application For Provisional Registration Licensure.** ( )

**a.** The Board, based upon the recommendation of the Board of Athletic Trainers, ~~based upon the recommendation of the Board of Athletic Trainers,~~ may issue provisional ~~registration~~ licensure to applicants who ~~are actively participating in an internship program or curriculum of an institution approved by the Board and under the supervision of a registered athletic trainer~~ have successfully completed a bachelor's or advanced degree from an accredited four (4) year college or university, and met the minimum athletic training curriculum requirement established by the Board as recommended by the Board of Athletic Trainers and who have met all the other requirements set forth by Section 030 of these rules but who have not yet passed the examination conducted by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, approved by the Board as recommended by the Board of Athletic Trainers. A provisional ~~registration~~ license shall be valid for a term of one (1) year, but may be renewed only twice, at the discretion of the Board, ~~based upon the recommendation of the Board of Athletic Trainers.~~ *(9-16-89)*( )

**b.** Each applicant for provisional licensure shall submit a completed written application to the Board on forms prescribed by the Board, together with the application fee. The application shall be verified, under oath, and contain the specific information in Subsection 030.01 and a provisional license athletic trainer/supervisor affidavit. ( )

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i. Affidavit. An affidavit signed by an Idaho licensed athletic trainer affirming and attesting to supervise and be responsible for the athletic training services of the provisionally licensed graduate athletic trainer and to review and countersign all records and documentation of services performed by the provisionally licensed graduate athletic trainer. ( )

ii. Supervision. A provisionally licensed graduate athletic trainer shall be in direct association with his directing physician and Idaho licensed athletic trainer who shall supervise and be available to render direction in person and on the premises where the athletic training services are being provided. The directing physician and the supervising athletic trainer shall be responsible for the athletic training services provided by the provisionally licensed graduate athletic trainer. The supervising athletic trainer shall review and countersign all documentation of athletic training services performed by the provisionally licensed graduate athletic trainer. The extent of communication between the directing physician and supervising athletic trainer and the provisionally licensed graduate athletic trainer shall be determined by the competency of the provisionally licensed athletic trainer and the practice setting and the type of athletic training services being rendered. ( )

d. Expiration of Provisional License. All provisional licenses for athletic trainers shall expire upon meeting the minimum athletic training curriculum requirement established by the Board as recommended by the Board of Athletic Trainers and meeting all the other requirements set forth by Section 030 of these rules, including passing the certification examination conducted by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, approved by the Board as recommended by the Board of Athletic Trainers. ( )

03. Licensure For Uncertified Athletic Trainers Currently Practicing In Idaho. All athletic trainers holding current Idaho registration on July 1, 2003, who are not certified by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, accepted by the Board, may be issued a license upon submitting a completed written application to the Board on forms prescribed by the Board; proof of current cardiopulmonary resuscitation certification; and payment of the prescribed fee. After 2006, all initial renewals shall require documentation of successful completion of a Board approved medical screening course on forms provided by the Board. Such approved medical screening course may be included in the required eighty (80) hours of continuing educational activities or units. ( )

### SECTION 040, SUBSECTIONS 040.01.b., 040.02, and 040.03 (Partial Section)

#### 040. REGISTRATION LICENSURE (EXPIRATION AND RENEWAL).

All registrations shall expire on the 30th day of June following issuance or renewal and shall become invalid after that date unless renewed. Renewable licenses to practice as an athletic trainer shall be issued for a period of not less than one (1) year or more than five (5) years. All licenses shall expire on the expiration date printed on the face of the certificate and shall become invalid after that date unless renewed. The Board shall collect a fee for each renewal year of a license. The failure of any licensee to renew his license shall not deprive such person of the right to renewal, except as provided for herein and Section 54-3913, Idaho Code. The Board or the Board of Athletic Trainers may, at its discretion, require any applicant to appear for a personal interview when necessary to identify and evaluate the applicant's credentials. (9-16-89)( )

01. ~~Annual~~ Renewal. ~~Each registration~~ All licenses shall be renewed ~~annually before July 1st~~ before the expiration date printed on the face of the certificate by submitting a completed request for renewal on forms provided by the Board and accompanied by payment of the renewal fee to the Board. ~~Registrations~~ Licenses not renewed by the expiration date shall be canceled unless disciplinary action is pending. ~~Each renewal request shall also include documentation of:~~ (9-16-89)( )

b. If Not Currently Certified. After 2006, successful completion of eighty (80) hours of Board approved continuing educational activities or units during each three (3) year reporting period on forms provided by

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the Board. During the first three (3) year renewal reporting period, successful completion of the required Board approved medical screening course, which may be included in the required eighty (80) hours of continuing educational activities or units. ( )

**02. Reinstatement.** ~~Registrations~~ Licenses canceled for non-payment of ~~yearly~~ renewal fees or lapsed for a period of less than three (3) consecutive years may be reinstated by filing a completed request for renewal on forms provided by the Board with the Board; ~~and~~ paying reinstatement fees; ~~and providing documentation of good standing with and current certification by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, accepted by the Board. Those athletic trainers previously licensed while not holding certification shall provide documentation of successful completion of eighty (80) hours of Board approved continuing educational activities or units during each three (3) year reporting period on forms provided by the Board.~~ (9-16-89)( )

**03. Reapplication.** A person whose ~~registration~~ license has been canceled or has lapsed for a period of more than ~~five~~ three (3) years shall be required to re-apply as a new applicant ~~by examination;~~ pay application fees; and document good standing with and current certification by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, accepted by the Board. ~~Those athletic trainers previously licensed while not holding certification shall provide documentation of successful completion of eighty (80) hours of Board approved continuing educational activities or units during each three (3) year reporting period during the time the license has been canceled or has lapsed on forms provided by the Board, in lieu of current certification. The applicant shall successfully demonstrate to the Board, upon recommendation of the Board of Athletic Trainers, competency in the practice of athletic training. The Board, upon recommendation of the Board of Athletic Trainers, may also require the applicant to take an examination, remedial courses, or both, as shall be recommended by the Board of Athletic Trainers.~~ (9-16-89)( )

### SUBSECTION 052.03.m. (Partial Section)

#### 052. DENIAL OR REFUSAL TO RENEW ~~REGISTRATION~~ LICENSURE OR SUSPENSION OR REVOCATION OF ~~REGISTRATION~~ LICENSURE.

**023. Unprofessional Conduct.** The Board, upon recommendation of the Board of Athletic Trainers, may refuse to issue a ~~registration~~ license or provisional ~~permit~~ license, or to renew a ~~registration~~ license, or may suspend or revoke a ~~registration~~ license or provisional ~~permit~~ license, or may impose probationary conditions if the ~~holder of a registration or provisional permit licensee~~ or applicant for ~~registration~~ licensure or provisional ~~permit~~ license has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. All petitions for reconsideration of a denial of a license application or reinstatement application shall be made to the Board within one (1) year from the date of the denial. Such unprofessional conduct includes, but is not limited to: (4-2-93)( )

**m.** Inconsistence with or failure to limit the scope of practice of athletic training to the scope of practice of the directing physician. ( )

### SUBSECTIONS 061.02 through 061.05 (Partial Section)

#### 061. FEES.

**02. Annual Renewal Fee.** The ~~annual~~ renewal fee shall be no more than eighty one hundred sixty dollars (\$8160) for each year renewed. (4-2-93)( )

**03. Provisional ~~Registration~~ Licensure Fee.** A provisional license shall be valid for a term of one (1)

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*year, but may be renewed only twice, at the discretion of the Board upon recommendation of the Board of Athletic Trainers. The fee for a provisional ~~registration~~ license shall be no more than ~~forty~~ eighty dollars (\$480). The renewal fee for a provisional license shall be no more than forty dollars (\$40) for each year renewed.* (9-16-89)( )

**04. Annual Renewal Fee - Inactive ~~Registration~~ Licensure.** The ~~annual~~ renewal fee for inactive ~~registration~~ licensure shall be no more than eighty dollars (\$80) *for each year renewed.* (4-2-93)( )

**05. Reinstatement Fee.** The reinstatement fee *for a license that has lapsed for a period of less than three (3) consecutive years shall be no more than ~~forty~~ fifty dollars (\$450) plus renewal fees for each renewal year. The fee for converting from an inactive status to full active licensure shall be no more than fifty dollars (\$50) plus the renewal fees for each year not actively licensed minus inactive renewal fees.* (9-16-89)( )

### APPENDIX A - CODE OF ETHICS (Partial Appendix)

The Athletic Trainer shall continually strive to increase and improve his ~~or her~~ knowledge and skills and render to each ~~patient~~ athlete the full measure of his ~~or her~~ ability. All athletic training services shall be provided with respect for the dignity of the ~~patient~~ athlete, unrestricted by considerations of social or economic status, personal attributes, or the nature of ~~health~~ the athlete's problems.

# **2004 - Health and Welfare Senate Pending Fee Rule (Green)**

## **IDAPA 22 - BOARD OF MEDICINE**

### **22.01.10 - RULES FOR THE REGISTRATION OF ATHLETIC TRAINERS TO PRACTICE IN IDAHO**

#### **DOCKET NO. 22-0110-0301 (FEE RULE)**

#### **NOTICE OF RULEMAKING - PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Sections 54-1806 (2), 54-3902 (7) 54-3907, 54-3910, and 54-3913 (1), (2), (4) and (5)(e), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be held as follows:

**October 2, 2003  
11 a.m. until 5 p.m.  
Idaho State Board of Medicine Office  
1755 Westgate Drive, Boise, Idaho**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These rules changes are required due to a revision of the Athletic Trainers Practice Act. These rule changes add or change definitions, define the scope of practice of the athletic trainer and define the responsibilities of directing physicians, clarify the requirements for initial application and renewal, provide for provisional licensure, amend the reinstatement process and fees and make other changes to update and clarify the rules.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted including representatives from the athletic trainers' association, physical therapy association, occupational therapy association and the chiropractic physicians' association.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August, 2003.

Nancy M. Kerr  
Executive Director  
Idaho State Board of Medicine  
1755 Westgate Drive  
PO Box 83720, Boise, Idaho 83720-0058  
(208) 327-7000 / Fax (208) 327-7005

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0110-0301**

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

**BOARD OF MEDICINE**  
**Registration of Athletic Trainers to Practice in Idaho**

**Docket No. 22-0110-0301**  
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### 22.01.10 - RULES FOR THE ~~REGISTRATION~~ LICENSURE OF ATHLETIC TRAINERS TO PRACTICE IN IDAHO

#### 001. TITLE AND SCOPE.

**01. Title.** These rules shall be cited as IDAPA 22.01.10, "Rules for the ~~Registration~~ Licensure of Athletic Trainers to Practice in Idaho". ~~(7-1-93)~~( )

**02. Scope.** Pursuant to this chapter and Idaho Code, Section 54-3904, athletic trainers must be licensed with the Board prior to commencement of activities related to athletic training. ( )

#### 002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rule-making that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board of Medicine, 1755 Westgate Drive, Suite 140, Box 83720 Boise, Idaho 83720-0058. ( )

#### 003. ADMINISTRATIVE APPEAL.

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General" and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine". ( )

#### 004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into this rule. ( )

#### 005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, Box 83720 Boise, Idaho 83720-0058. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 327-7005. The Board's office hours for filing documents are 8 a.m. to 5 p.m. ( )

#### 006. PUBLIC RECORD ACT COMPLIANCE.

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ( )

#### 007. FILING OF DOCUMENTS -- NUMBER OF COPIES.

All documents in rule-making or contested case proceedings must be filed with the office of the Board. The original and ten (10) copies of all documents must be filed with the office of the Board. ( )

#### 0028. -- 009. (RESERVED).

#### 010. DEFINITIONS.

**061. Actively Engaged.** A person who is employed in Idaho on a ~~salary~~ remuneration basis by an educational or health care institution, professional, ~~or amateur, athletic organization or recreational sports club,~~ or other bona fide athletic organization and ~~performs the duties of an~~ is involved in athletic training as a responsibility of his employment. ~~(9-16-89)~~( )

**042. Association.** The Idaho Athletic Trainers' Association. (9-16-89)

**043. Athlete.** A person who ~~is associated with or is training for an individual or a team competitive activity which is sponsored by an educational institution, amateur or professional group or other recognized~~ participates in exercises, sports, or games requiring physical strength, agility, flexibility, range of motion, speed or stamina and which exercises, sports or games are of the type generally conducted in association with an educational

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institution or professional, amateur or recreational sports club or organization.

~~(9-16-89)~~( )

**04. Athletic Injury.** A physical injury, harm, hurt or common condition (such as heat disorders), incurred by an athlete, preventing or limiting participation in athletic activity, sports or recreation, which athletic trainers are educated to evaluate and treat or refer to the directing physician.

( )

**05. Athletic Trainer.** ~~Athletic Trainer or such other terms as recognized by the Board, means a person with the specific qualifications for registration set forth pursuant to this chapter, who, upon the direction of the team physician or consulting physician, carries out the practice of prevention, care and reconditioning of physical injuries incurred by athletes, employing the application of cold, heat, electrical stimulation, and exercises. A person who has met the qualifications for licensure as set forth in this chapter and Section 54-3906, Idaho Code, and is licensed under this chapter and Section 54-3909, Idaho Code. The athletic trainer's practice of athletic training shall be under the direction of a designated Idaho licensed physician registered with the Board or a designated Idaho licensed chiropractic physician.~~

~~(9-16-89)~~( )

**06. Athletic Training.** The application by a licensed athletic trainer of the principles and methods of prevention of athletic injuries; recognition, evaluation and assessment of athletic injuries and conditions; immediate care of athletic injuries including common emergency medical situations; rehabilitation and reconditioning of athletic injuries; athletic training services administration and organization; and education of athletes under the direction of and in accordance with the scope of practice of his directing physician.

( )

**07. Athletic Training Service Plan Or Protocol.** A written document, made upon a form provided by the Board, mutually agreed upon, signed and dated by the athletic trainer and directing physician that defines the athletic training services to be provided by the athletic trainer. The Board may review athletic training service plans or protocols, job descriptions, policy statements, or other documents that define the responsibilities of the athletic trainer in the practice setting, and may require such changes as needed to achieve compliance with this chapter and Title 54, Chapter 39, Idaho Code, and to safeguard the public. The Board of Chiropractic Physicians may review those athletic training service plans or protocols or other documents that define the responsibilities of the athletic trainer for those athletic trainers whose directing physicians are chiropractic physicians.

( )

**028. Board.** The Idaho State Board of Medicine, established pursuant to Section 54-1805, Idaho Code.

~~(9-16-89)~~( )

**039. Board Of Athletic Trainers.** The Idaho Board of Athletic Trainers, established pursuant to this chapter and Section 54-3912, Idaho Code.

~~(9-16-89)~~( )

**10. Board Of Chiropractic Physicians.** The Idaho State Board of Chiropractic Physicians, established pursuant to Section 54-706, Idaho Code.

( )

**11. Directing Physician.** A designated person duly licensed to practice medicine and surgery or osteopathic medicine and surgery in Idaho, and registered with the Board or a designated Idaho licensed chiropractic physician, who is responsible for the athletic training services provided by the athletic trainer and oversees the practice of athletic training of the athletic trainer. This chapter does not authorize the practice of medicine or any of its branches by a person not so licensed by the Board.

( )

### 011. BOARD OF ATHLETIC TRAINERS.

**01. Board Appointments.** The Board of Athletic Trainers of the Idaho State Board of Medicine shall consist of four (4) members, three (3) of whom shall be ~~registered~~ athletic trainers licensed in Idaho and actively engaged in the practice of athletic training, and one (1) of whom shall be a lay person. The Board shall appoint the members of the Board of Athletic Trainers. The Board shall give consideration to recommendations made by the Idaho Athletic Trainers' Association. If recommendations are not made within sixty (60) days of notification and request, the Board may make appointments of any qualified individual. In the event of a vacancy in one (1) of the positions, the Association may recommend, as soon as practical, at least two (2) and not more than three (3) persons to fill that vacancy. The Board shall appoint, as soon as practical, one (1) person, who shall fill the unexpired term. If the Association does not provide a recommendation within sixty (60) days of notification and request, the Board shall appoint a person to the unexpired term. The Board may remove any Board of Athletic Trainers member for

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misconduct, incompetency, or neglect of duty after giving the member a written statement of the charges and an opportunity to be heard thereon. Each member will serve a term of four (4) years and terms shall be staggered. A chairperson shall be elected from its membership. The Executive Director of the Idaho State Board of Medicine shall serve as the Executive Director to the Board of Athletic Trainers. The Board of Chiropractic Physicians may designate a contact person for the Board of Athletic Trainers regarding matters relevant to those athletic trainers whose directing physicians are chiropractic physicians. (9-16-89)( )

**02. Board Affiliation.** The Board of Athletic Trainers will work in conjunction with the Idaho State Board of Medicine and will perform the duties and functions promulgated by the Board, including: (9-16-89)

a. Evaluating the qualifications of applicants for ~~registration, administering examinations~~ licensure, and issuing and renewing ~~registrations~~ licenses. (9-16-89)( )

b. Performing investigations of misconduct and making recommendations regarding discipline. (9-16-89)

c. Maintaining a list of currently ~~registered~~ licensed Athletic Trainers in this state. (9-16-89)( )

d. **Final Decisions.** The Board of Athletic Trainers shall have no authority to impose limitations or conditions on licenses issued under this chapter and shall be authorized only to make recommendations to the Board. The Board shall make all final decisions with respect thereto. ( )

e. **On-Site Review.** The Board, by and through its designated agents, is authorized to conduct on-site reviews of the activities of the athletic trainer at the locations and facilities in which the athletic trainer practices at such times as the Board deems necessary. ( )

### **012. SCOPE OF PRACTICE.**

**01. Exclusion Of Independent Practice.** The scope of practice excludes any independent practice of athletic training by an athletic trainer. The scope of practice of an athletic trainer shall conform to his established athletic training service plan or protocol and shall be overseen by his directing physician, who is responsible for the athletic training services provided by the athletic trainer. ( )

**02. Referral By Directing Physician.** An athletic injury not incurred in association with an educational institution, professional, amateur, or recreational sports club or organization shall be referred by a directing physician, but only after such directing physician has first evaluated the athlete. ( )

**03. Limitations Of Scope Of Practice.** The scope practice of the athletic trainer, as set forth in this chapter and Section 54-3903, Idaho Code, shall be limited to and consistent with the scope of practice of his directing physician. ( )

**04. Identification.** The athletic trainer must at all times when on duty identify himself as an athletic trainer. ( )

### **013. ATHLETIC TRAINING SERVICE PLAN OR PROTOCOL.**

Each licensed athletic trainer providing athletic training services shall create, upon a form provided by the Board, an athletic training service plan or protocol between the athletic trainer and his directing physician. This athletic training service plan or protocol shall be reviewed and updated on an annual basis. Each licensed athletic trainer must notify the Board within thirty (30) days of any change in the status of his directing physician. This plan or protocol shall not be sent to the Board, but must be maintained on file at each location in which the athletic trainer is practicing. The Board may review athletic training service plans or protocols, job descriptions, policy statements, or other documents that define the responsibilities of the athletic trainer in the practice setting, and may require such changes as needed to achieve compliance with this chapter, Title 54, Chapter 39, Idaho Code, and to safeguard the public. This plan or protocol shall be made immediately available to the Board upon request. This plan or protocol shall be made immediately available to the Board of Chiropractic Physicians for those athletic trainers whose directing physicians are chiropractic physicians. This plan or protocol shall include: ( )

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### **BOARD OF MEDICINE** **Registration of Athletic Trainers to Practice in Idaho**

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**01. Listing Of Services And Activities.** A listing of the athletic training services to be provided and specific activities, which will be performed by the athletic trainer. ( )

**02. Locations And Facilities.** The specific locations and facilities in which the athletic trainer will function; and ( )

**03. Methods To Be Used.** The methods to be used to ensure responsible direction and control of the activities of the athletic trainer, which shall provide for the: ( )

**a.** Recording of an on-site visit by the directing physician at least biannually or every semester; ( )

**b.** Availability of the directing physician to the athletic trainer in person or by telephone and procedures for providing direction for the athletic trainer in emergency situations; and ( )

**c.** Procedures for addressing situations outside the scope of practice of the athletic trainer. ( )

### **014. DUTIES AND RESPONSIBILITIES OF DIRECTING PHYSICIANS.**

**01. Services And Supervision.** The directing physician shall be responsible for the acts and athletic training services of the athletic trainer and for the supervision of the provision of athletic training. ( )

**02. Availability.** The directing physician must always be available either in person or by telephone to supervise, direct, and counsel the athletic trainer. ( )

**03. Verbal Or Written Order.** Prior to providing athletic training service, this direction will be provided by verbal order when the directing physician is present and by written order or by athletic training service plans or protocols, as established by Board rule, when the directing physician is not present. This direction shall include identifying acute athletic injuries or emergencies or sentinel events requiring the athletic trainer to immediately notify the directing physician. ( )

**04. Referral From A Physician Licensed In Another State.** Upon referral from a physician licensed in another state and in good standing, the practice of athletic training, physical rehabilitation, and reconditioning shall be carried out under the written orders of the referring physician and in collaboration with the directing physician. ( )

**05. Disclosure Requirement.** Each directing physician shall ensure that each person who receives the services of an athletic trainer is aware of the fact that said person is an athletic trainer. This disclosure requirement can be fulfilled by the use of nametags, correspondence, oral statements, office signs or such other procedures that under the involved circumstances adequately advised the person of the education and training of the person rendering athletic training services; ( )

**06. Directing Physician.** Each directing physician shall record: ( )

**a.** An on-site visit at least biannually or every semester to personally observe the quality of athletic training services provided; and ( )

**b.** A review of a representative sample of the records including, but not limited to, records made from the past six (6) months of the review to evaluate the athletic training services that were provided. ( )

**07. Complaints.** The directing physician shall report to the Board of Medicine all complaints received related to allegations against the athletic trainer including, but not limited to, the quality and nature of athletic training services. ( )

### **015. REGISTRATION OF DIRECTING PHYSICIANS LICENSED TO PRACTICE MEDICINE AND SURGERY BY THE BOARD OF MEDICINE.**

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**01. Registration And Renewal.** Each directing physician or alternate directing physician, licensed to practice medicine and surgery by the Board, must register with the Board and such registration shall be renewed annually. ( )

**02. Completion Of Registration Form.** A physician applicant must complete a form provided by the Board documenting: ( )

**a.** The physician applicant has completed an athletic training service plan or protocol signed by the athletic trainer, directing physician, and alternate directing physicians; and ( )

**b.** The athletic training service plan or protocol is on file at the Idaho practice sites. ( )

**03. Notification.** Each directing physician must notify the Board within thirty (30) days of any change in the status of any athletic trainer for whom he is responsible, including, but not limited to, changes in location, duties, responsibilities, or supervision, or termination of employment. ( )

**04. Fees.** The registration fee for a directing physician shall be no more than fifty dollars (\$50) and the annual renewal fee shall be no more than twenty-five dollars (\$25); provided, however, alternate or substitute directing physicians, licensed to practice medicine and surgery by the Board, shall not be required to pay an annual renewal registration or renewal fee. ( )

### **016. DISCIPLINARY ACTION.**

Every directing physician is subject to discipline by his respective Board pursuant to the procedures and powers set forth in Sections 54-1806, 54-1806A, and 54-707, Idaho Code for violation of these rules or upon any of the grounds set forth in Sections 54-1814 and 54-712, Idaho Code. ( )

**012. -- 019. (RESERVED).**

### **020. GENERAL QUALIFICATIONS FOR ~~REGISTRATION~~ LICENSURE.**

**01. Applicant.** An applicant must be of good moral character and must meet the requirements of ~~Idaho Code~~, Section 54-39056, Idaho Code, and these rules. The Board may refuse ~~registration~~ licensure if it finds the applicant has engaged in conduct prohibited by Section 54-39121, Idaho Code; provided, the Board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. The Board or the Board of Athletic Trainers may, at its discretion, require any applicant to appear for a personal interview when necessary to identify and evaluate the applicant's credentials. (9-16-89)( )

**02. ~~Registration~~ Licensure.** Each applicant shall either have received a bachelor's or advanced degree from an accredited four (4) year college or university, met the minimum athletic training curriculum requirement established by the Board as recommended by the Board of Athletic Trainers, and passed an certification examination required by the Board, or shall be entitled to apply for ~~registration~~ provisional licensure pursuant to ~~Idaho Code~~, Section 54-3908, ~~or provisional registration or registration by endorsement~~ Idaho Code. (9-16-89)( )

**a.** The written examination and passing score required for ~~registration~~ licensure as an Athletic Trainer, shall be ~~designated and approved by the Board~~ the certification examination administered by the National Athletic Trainers' Association Board of Certification or equivalent examination recognized by the Board as recommended by the Board of Athletic Trainers. (9-16-89)( )

**b.** An applicant for ~~registration~~ licensure by certification examination who fails to pass the examination on any occasion must ~~submit a new application as in Subsection 030.01 below~~ provide written notification to the Board within thirty (30) days of notice of failure. (9-16-89)( )

**c.** An applicant for ~~registration~~ for licensure by certification examination who has failed to pass the examination on two (2) separate occasions will be denied eligibility to re-apply; however, the applicant may request the Board to consider his or her application may be considered on an individual basis if he or she submits proof of additional training acceptable to the Board. In its discretion, the Board of Athletic Trainers may make a determination if additional clinical or coursework is required to determine the applicant's eligibility to re-apply, and

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recommend to the Board such additional clinical or coursework.

(9-16-89)( )

**03. Application Expiration.** An application ~~upon which the applicant takes no further action will be held for no longer than~~ for licensure that is not granted and license not issued in one (1) year from the date the application is received by the Board shall expire; however, the applicant may make a written request to the Board to consider his application on an individual basis. In its discretion, the Board of Athletic Trainers may make a determination if extraordinary circumstances exist justifying extending the one (1) year time period up to an additional one (1) year and so recommend to the Board to grant the request for such extension of time.

(9-16-89)( )

**021. -- 029. (RESERVED).**

### **030. APPLICATION FOR ~~REGISTRATION~~ LICENSURE.**

**01. ~~Registration~~ Application For Licensure By Certification Examination.** Each applicant for ~~registration~~ licensure by certification examination shall submit a completed written application to the Board on forms prescribed by the Board ~~no less than thirty (30) days prior to the next examination date~~, together with the application fee. The application shall be verified and under oath and shall require the following documentation: (9-16-89)( )

**a.** Receipt of a ~~college baccalaureate~~ bachelor's or advanced degree from an accredited four (4) year college or university, and the minimum athletic training curriculum requirement established by the Board as recommended by the Board of Athletic Trainers. (9-16-89)( )

**b.** Successful completion of the certification examination administered by the National Athletic Trainers' Association Board of Certification or equivalent examination recognized by the Board as recommended by the Board of Athletic Trainers. ( )

**c.** Good standing with and current certification by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, recognized by the Board as recommended by the Board of Athletic Trainers. ( )

**d.** The disclosure of any criminal conviction or charges against the applicant other than minor traffic offenses. (9-16-89)

**ee.** The disclosure of any charge, offense or disciplinary action against the applicant by any state professional regulatory agency or professional organization in a manner that bears a demonstrable relationship to the ability of the applicant to practice athletic training in accordance with the provisions of this chapter. (9-16-89)( )

**ff.** The disclosure of the denial of registration, licensure or certification by any state, district or national regulatory body. (9-16-89)

**gg.** Not less than two (2) certificates of recommendation from persons ~~having, other than relatives or individuals living with the applicant, who have at least two (2) years of~~ personal knowledge of the applicant's character, ~~one (1) of which must be from a supervising physician~~ and ability to work as an athletic trainer. (9-16-89)( )

**hh.** ~~Two~~ One (21) unmounted photographs of the applicant, no larger than three by four inch (3" X 4") (head and shoulders), taken not more than one (1) year prior to the date of the application. (9-16-89)( )

**gi.** Such other information as deemed necessary for the Board to identify and evaluate the applicant's credentials. (9-16-89)

**02- ~~Registration By Endorsement.~~** ~~An applicant may be eligible for registration without examination if he or she is certified by the National Athletic Trainers' Association Board of Certification, providing the standards are equivalent to the standards of this state, and are current with continuing education units.~~ (9-16-89)

**a:** Each applicant for registration by endorsement shall submit a completed written application to the

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~~Board on forms prescribed by the Board, together with the application fee. The application shall be verified, under oath, and contain the specific information in Subsection 030.01 above.~~ (9-16-89)

~~b. Proof of certification shall be verified in a manner acceptable to the Board.~~ (9-16-89)

~~c. Reciprocal registration is not available. Applicants currently registered or licensed in other states must comply with the requirements set forth in Subsection 030.01 above, to be eligible for registration in the state of Idaho.~~ (9-16-89)

#### **032. Application For Provisional Registration Licensure.** ( )

~~a. The Board, based upon the recommendation of the Board of Athletic Trainers, based upon the recommendation of the Board of Athletic Trainers, may issue provisional registration licensure to applicants who are actively participating in an internship program or curriculum of an institution approved by the Board and under the supervision of a registered athletic trainer have successfully completed a bachelor's or advanced degree from an accredited four (4) year college or university, and met the minimum athletic training curriculum requirement established by the Board as recommended by the Board of Athletic Trainers and who have met all the other requirements set forth by Section 030 of these rules but who have not yet passed the examination conducted by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, approved by the Board as recommended by the Board of Athletic Trainers. A provisional registration shall be valid for a term of one (1) year, but may be renewed only twice, at the discretion of the Board of Athletic Trainers.~~ (9-16-89)( )

~~b. Each applicant for provisional licensure shall submit a completed written application to the Board on forms prescribed by the Board, together with the application fee. The application shall be verified, under oath, and contain the specific information in Subsection 030.01 and a provisional license athletic trainer/supervisor affidavit.~~ ( )

~~i. Affidavit. An affidavit signed by an Idaho licensed athletic trainer affirming and attesting to supervise and be responsible for the athletic training services of the provisionally licensed graduated athletic trainer and to review and countersign all records and documentation of services performed by the provisionally licensed graduate athletic trainer.~~ ( )

~~ii. Supervision. A provisionally licensed graduate athletic trainer shall be in direct association with his directing physician and Idaho licensed athletic trainer who shall supervise and be available to render direction in person and on the premises where the athletic training services are being provided. The directing physician and the supervising athletic trainer shall be responsible for the athletic training services provided by the provisionally licensed graduate athletic trainer. The supervising athletic trainer shall review and countersign all documentation of athletic training services performed by the provisionally licensed graduated athletic. The extent of communication between the directing physician and supervising athletic trainer and the provisionally licensed graduate athletic trainer shall be determined by the competency of the provisionally licensed athletic trainer and the practice setting and the type of athletic training services being rendered.~~ ( )

~~c. Scope of Practice. The scope of practice of the provisionally licensed athletic trainer, as set forth in this chapter and Section 54-3903, Idaho Code, shall be limited to and consistent with the scope of practice of his directing physician and supervising athletic trainer and conform with the established athletic training service plan or protocol.~~ ( )

~~d. Expiration of Provisional License. All provisional licenses for athletic trainers shall expire upon successful completion of a bachelor's or advanced degree from an accredited four (4) year college or university, and meeting the minimum athletic training curriculum requirement established by the Board as recommended by the Board of Athletic Trainers and meeting all the other requirements set forth by Section 030 of these rules, including passing the examination conducted by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, approved by the Board as recommended by the Board of Athletic Trainers.~~ ( )

#### **03. Licensure For Uncertified Athletic Trainers Currently Practicing In Idaho.** All athletic

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trainers holding current Idaho registration on July 1, 2003, who are not certified by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, accepted by the Board, may be issued a license upon and payment of the prescribed renewal fee. After 2006, all such renewals shall also require documentation of successful completion of eighty (80) hours of Board approved continuing educational activities or units during each three (3) year reporting period on forms provided by the Board. ( )

~~04. Registration For Athletic Trainers Currently Practicing In Idaho. Any person actively engaged as an athletic trainer on July 1, 1989, shall be issued a registration upon compliance with the following conditions:~~ (9-16-89)

- ~~a. Submitting application within ninety (90) days of July 1, 1989, which includes;~~ (9-16-89)
- ~~i. The information set forth in Subsection 030.01;~~ (9-16-89)
- ~~ii. Proof of active practice for more than five (5) years or proof of active practice and completion of fifteen (15) semester hours of course work.~~ (9-16-89)
- ~~b. Paying the required registration fee; and~~ (9-16-89)
- ~~e. Appearing for a personal interview by the Board of Athletic Trainers or a member of the Board of Athletic Trainers to review and evaluate the applicant's knowledge and experience.~~ (9-16-89)
- ~~d. The Board may, at its discretion, require any applicant to appear for a personal interview.~~ (9-16-89)
- ~~e. All applicants are required to pay a registration fee.~~ (9-16-89)

031. -- 039. (RESERVED).

#### 040. **REGISTRATION LICENSURE (ISSUANCE, EXPIRATION AND RENEWAL).**

All registrations shall expire on the 30th day of June following issuance or renewal and shall become invalid after that date unless renewed licenses to practice as an athletic trainer shall be issued for a period of not less than one (1) year or more than five (5) years. All licenses shall expire on the expiration date printed on the face of the certificate and shall become invalid after that date unless renewed. The Board shall collect a fee for each renewal year of a license. The failure of any licensee to renew his license shall not deprive such person of the right to renewal, except as provided for herein and Section 54-3912, Idaho Code. The Board or the Board of Athletic Trainers may, at its discretion, require any applicant to appear for a personal interview when necessary to identify and evaluate the applicant's credentials. (9-16-89)( )

**01. Annual Renewal.** ~~Each registration~~ All licenses shall be renewed ~~annually before July 1st before~~ the expiration date printed on the face of the certificate by submitting a completed request for renewal on forms provided by the Board and accompanied by payment of the renewal fee to the Board. ~~Registrations~~ Licenses not renewed by the expiration date shall be canceled unless disciplinary action is pending. Each renewal request shall also include documentation of: (9-16-89)( )

**a. If Currently Certified.** Current certification by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, recognized by the Board as recommended by the Board of Athletic Trainers; or ( )

**b. If Not Currently Certified.** Upon the effective date of these rules, proof of current cardiopulmonary resuscitation certification and, after 2006, successful completion of eighty (80) hours of Board approved continuing educational activities or units during each three (3) year reporting period on forms provided by the Board. ( )

**02. Reinstatement.** ~~Registrations~~ Licenses canceled for non-payment of ~~yearly~~ renewal fees or lapsed for a period of less than three (3) consecutive years may be reinstated by filing a completed request for renewal on forms provided by the Board with the Board; ~~and~~ paying reinstatement fees; and providing documentation of good standing with and current certification by the National Athletic Trainers' Association Board of Certification or a

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nationally recognized credentialing agency, accepted by the Board.

~~(9-16-89)~~( )

**03. Reapplication.** A person whose ~~registration~~ license has been canceled or has lapsed for a period of more than ~~five~~ three (3) years shall be required to re-apply as a new applicant ~~by examination~~; pay application fees; and document good standing with and current certification by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, accepted by the Board. The applicant shall successfully demonstrate to the Board, upon recommendation of the Board of Athletic Trainers, competency in the practice of athletic training. The Board, upon recommendation of the Board of Athletic Trainers, may also require the applicant to take an examination, remedial courses, or both, as shall be recommended by the Board of Athletic Trainers.

~~(9-16-89)~~( )

**04. Continuing Education.** All licensed athletic trainers who are not certified after 2006 shall provide documentation of successful completion of eighty (80) hours of Board approved continuing educational activities or units during each three (3) year reporting period on forms provided by the Board. All licensed and currently certified athletic trainers may submit a summary of eighty (80) hours of Board approved continuing education activities or units during the preceding three (3) years may be submitted with the renewal application to document this effort by the athletic trainer. Appropriate continuing professional education activities include but are not limited to, the following:

~~(9-16-89)~~( )

~~a. Reading of professional books and journals.~~

~~(9-16-89)~~

~~b. Attending or presenting at conferences, seminars or inservice programs.~~

(9-16-89)

~~c. Supervision of clinical students.~~

~~(9-16-89)~~

~~d. Holding state, district, national office or committee chair positions in professional organizations.~~

~~(9-16-89)~~

~~e. Formal coursework in Athletic Training related subjects.~~

(9-16-89)

~~f. Presentation of Athletic Training related information to allied professional or community groups.~~

(9-16-89)

~~g. Conduct of Athletic Training related research or grant supported activity.~~

(9-16-89)

~~h. Publication of an original article, review or report of clinical experience in an appropriate professional publication.~~

(9-16-89)

**041. -- 049. (RESERVED).**

### **050. INACTIVE STATUS.**

The Board, upon recommendation of the Board of Athletic Trainers, shall grant inactive status to a ~~registrant~~ licensee who makes application for inactive status accompanied by payment of the prescribed fee to the Board and does not practice as an ~~A~~athletic ~~T~~rainer in Idaho.

~~(9-16-89)~~( )

### **051. REINSTATEMENT FROM INACTIVE STATUS TO FULL ~~REGISTRATION FROM INACTIVE STATUS~~ LICENSURE.**

An individual desiring reinstatement ~~from inactive status to full active registration licensure~~ to practice as an ~~A~~athletic ~~T~~rainer shall submit a completed written application to the Board together with the ~~registration and reinstatement~~ payment of prescribed fees. The application shall be verified and under oath. The Board upon recommendation of the Board of Athletic Trainers, may request such other information deemed necessary to identify and evaluate the applicant's proficiency, including, in its discretion, requiring a personal interview to identify and evaluate the applicant's credentials.

~~(9-16-89)~~( )

**01. Fee.** The fee for converting an inactive license to an active license shall be no more than one hundred ten dollars (\$110) and the annual renewal fee for each year not actively licensed minus inactive renewal fees previously paid.

( )

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**02. Documentation Of Inactive Time.** Before the inactive license will be converted to full active license, the applicant must provide documentation accounting for the time during which an inactive license was held. The Board may require evidence of an educational update and close supervision to assure safe and qualified performance. ( )

### 052. DENIAL OR REFUSAL TO RENEW ~~REGISTRATION~~ LICENSURE OR SUSPENSION OR REVOCATION OF ~~REGISTRATION~~ LICENSURE.

**01. Application Or Renewal Denial.** A new or renewal application for licensure may be denied; by the Board and shall be considered a contested case. ~~and e~~Every person ~~registered~~ licensed pursuant to Title 54, Chapter 39, Idaho Code and these rules is subject to discipline pursuant to the procedures and powers established by and set forth in ~~Idaho Code~~, Section 54-3912~~1~~, Idaho Code, the Idaho Administrative Procedure Act and ~~the IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine"~~. (4-2-93)( )

**02. Petitions For Reconsideration Of Denial.** All petitions for reconsideration of a denial of a license application or reinstatement application shall be made to the Board within one (1) year from the date of the denial. ( )

**023. Unprofessional Conduct.** The Board, upon recommendation of the Board of Athletic Trainers, may refuse to issue a ~~registration~~ license or provisional ~~permit~~ license, or to renew a ~~registration~~ license, or may suspend or revoke a ~~registration~~ license or provisional ~~permit~~ license, or may impose probationary conditions if the ~~holder of a registration or provisional permit licensee~~ or applicant for ~~registration~~ licensure or provisional ~~permit~~ license has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. All petitions for reconsideration of a denial of a license application or reinstatement application shall be made to the Board within one (1) year from the date of the denial. Such unprofessional conduct includes, but is not limited to: (4-2-93)( )

a. Obtaining ~~registration~~ license by means of fraud, misrepresentation, or concealment of material facts. (4-2-93)( )

b. Being guilty of unprofessional conduct, negligence or incompetence in the practice of athletic training as defined by the rules established by the ~~h~~Board, or violating the code of ethics which has been adopted and published by the ~~h~~Board, a copy of which is attached to these rules. (4-2-93)( )

c. Being convicted of a felony or a crime by a court of competent jurisdiction, which would have a direct and adverse bearing on the individual's ability to practice or ~~perform care~~ provide athletic training services as an athletic trainer competently. (4-2-93)( )

d. The unauthorized practice of medicine. (4-2-93)

e. Violating any provisions of ~~this~~ Title 54, ~~e~~Chapter 39, Idaho Code, or any of the rules promulgated by the ~~h~~Board under the authority of this chapter. (4-2-93)( )

f. Providing ~~care~~ athletic training services as an athletic trainer which fails to meet the standard of ~~health care~~ athletic training services provided by other qualified athletic trainers in the same community or similar communities. (4-2-93)( )

g. Being found mentally incompetent by a court of competent jurisdiction or unfit by the ~~h~~Board to provide ~~care~~ athletic training services as an athletic trainer. (4-2-93)( )

h. ~~Using any controlled substance or alcohol to the extent that use impairs the ability to practice as an athletic trainer at an acceptable level of competency.~~ Providing athletic training services while under the influence of alcohol, controlled substances or other skill impairing substances so as to create a risk of harm to an athlete. (4-2-93)( )

i. Employing, directing or supervising the ~~unregistered~~ unlicensed practice of athletic training.

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~~(4-2-93)~~( )

**j.** Practicing ~~in an area of care~~ or offering to practice athletic training as an athletic trainer for which the individual is not trained or beyond the scope of practice of athletic training as defined in this chapter and Title 54, Chapter 39, Idaho Code. ~~(4-2-93)~~( )

**k.** Misrepresenting educational or certification attainments. ~~(4-2-93)~~( )

**l.** Failure to supervise the activities of individuals who hold provisional ~~registration~~ licensure. ~~(4-2-93)~~( )

**m.** Inconsistence with or failure to limit the scope practice of athletic training to the scope of practice of the directing physician. ( )

**n.** Failure to maintain a current copy of an athletic training service plan or protocol between the athletic trainer and his directing physician. ( )

**o.** Failure to review and update the athletic training service plan or protocol on an annual basis. ( )

**p.** Failure to notify the Board within thirty (30) days of any change in the status of the athletic trainer's directing physician. ( )

**q.** Failure to make the athletic training service plan or protocol immediately available to the Board upon request. ( )

**r.** Any independent practice of athletic training by an athletic trainer. ( )

**s.** Advertising, representing or holding oneself out, either directly or indirectly, as a physician, chiropractic physician, physical therapist or occupational therapist unless so licensed in Idaho. ( )

**t.** Commission of any act of sexual contact, misconduct, exploitation or intercourse with an athlete for whom the athletic trainer provides athletic training services or former athlete or related to the licensee's practice of athletic training; ( )

**i.** Consent of the athlete shall not be a defense; ( )

**ii.** Subsection 053.03.f. shall not apply to sexual contact between an athletic trainer and the athletic trainer's spouse or a person in a domestic relationship who is also an athlete; ( )

**iii.** A former athlete is an athlete for whom the athletic trainer has provided athletic training services within the last twelve (12) months; ( )

**iv.** Sexual or romantic relationship with a former athlete beyond the period of time set forth herein may also be a violation if the athletic trainer uses or exploits the trust, knowledge, emotions or influence derived from the prior professional relationship with the athlete. ( )

**u.** Aiding or abetting a person not licensed in this state who directly or indirectly performs activities requiring a license. ( )

**v.** Failing to report to the Board any known act or omission of a licensee, applicant, or any other person, that violates any provision of this chapter. ( )

**w.** Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any athlete or witness to prevent them from providing evidence in a disciplinary proceeding, investigation or other legal action. ( )

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- x.** Failing to maintain confidentiality of records unless otherwise required or permitted by law. (\_\_\_\_)
- y.** Use of any advertising statements that deceive or mislead the public or that are untruthful. (\_\_\_\_)
- z.** Making statements that the licensee knows, or should have known, are false or misleading regarding skill or efficacy or value of treatment or remedy administered by the licensee in the treatment of any condition relevant to athletic training. (\_\_\_\_)
- aa.** Failing to maintain adequate records. For purposes of Subsection 053.03.aa., "adequate records" means legible records documenting the provision of athletic training services that contain, at a minimum, the athletic training service plan or protocol, written orders, an evaluation of objective findings, the plan of care and the treatment records. (\_\_\_\_)
- bb.** Promoting unnecessary devices, treatment, intervention or service for the financial gain of the athletic trainer, directing physician or of a third party. (\_\_\_\_)

**053. -- 060. (RESERVED).**

#### **061. FEES.**

- 01. ~~Registration~~ Licensure Fee.** The fee for ~~registration~~ licensure shall be no more than one two hundred ~~and twenty~~ forty dollars (\$~~240~~). (~~4-2-93~~)(\_\_\_\_)
- 02. ~~Annual~~ Renewal Fee.** The ~~annual~~ renewal fee shall be no more than eighty one hundred sixty dollars (\$~~8160~~). (~~4-2-93~~)(\_\_\_\_)
- 03. ~~Provisional Registration~~ Licensure Fee.** The fee for a provisional ~~registration~~ license shall be no more than forty eighty dollars (\$~~480~~). (~~9-16-89~~)(\_\_\_\_)
- 04. ~~Annual~~ Renewal Fee - Inactive ~~Registration~~ Licensure.** The ~~annual~~ renewal fee for inactive ~~registration~~ licensure shall be no more than eighty one hundred ten dollars (\$~~8110~~). (~~4-2-93~~)(\_\_\_\_)
- 05. Reinstatement Fee.** The reinstatement fee of a license that has lapsed for a period of less than three (3) consecutive years or converting from an inactive status to full active licensure shall be no more than forty fifty dollars (\$~~450~~). (~~9-16-89~~)(\_\_\_\_)
- ~~06. Examination Fee.~~** ~~The examination fee shall equal the cost of the test plus an administration fee of no more than fifty dollars (\$50).~~ (~~9-16-89~~)
- ~~07.~~ General Fee Information.** (9-16-89)
- a.** Necessary fees shall accompany applications. (9-16-89)
- b.** Fees shall not be refundable. (9-16-89)
- c.** In those situations where the processing of an application requires extraordinary expenses, the Board may charge the applicant with reasonable fees to cover all or part of the extraordinary expenses. (9-16-89)

**(BREAK IN CONTINUITY OF SECTIONS)**

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### APPENDIX A

#### CODE OF ETHICS

The Athletic Trainer shall practice ~~medically~~ acceptable methods of treatment that meet the standard of treatment provided by other qualified athletic trainers in the same community or similar communities and shall not endeavor to extend his ~~or her~~ practice beyond his ~~or her~~ competence.

The Athletic Trainer shall continually strive to increase and improve his ~~or her~~ knowledge and skills and render to each ~~patient~~ athlete the full measure of his ~~or her~~ ability. All athletic training services shall be provided with respect for the dignity of the ~~patient~~ athlete, unrestricted by considerations of social or economic status, personal attributes, or the nature of ~~health~~ athlete's problems.

The Athletic Trainer shall hold in strict confidence all privileged information concerning the ~~patient~~ athlete unless otherwise required or permitted by law and refer all inquiries to the directing physician in charge of the ~~patient's~~ athlete's medical or chiropractic care.

The Athletic Trainer shall not accept gratuities for preferential consideration of the ~~patient~~ athlete and, he or shall guard against conflicts of interest.

The Athletic Trainer shall uphold the dignity and honor of the profession and abide by its ethical principles. He ~~or she~~ shall be familiar with existing state and federal laws governing the practice of athletic training and comply with those laws.

The Athletic Trainer shall cooperate with other health care professionals and participate in activities to promote community and national efforts to meet the ~~health~~ athletic training needs of the public.

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### **IDAPA 22 - BOARD OF MEDICINE**

#### **22.01.11 - RULES FOR LICENSURE OF RESPIRATORY THERAPISTS IN IDAHO**

**DOCKET NO. 22-0111-0301**

#### **NOTICE OF RULEMAKING - PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-4304A, 54-4311, 54-4314 (1), and 54-4316, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule changes are required due to a change in the Respiratory Care Practice Act, Title 54, Chapter 43, Idaho Code. These changes will add definitions, define the requirements for application for permits for polysomnographic trainees, technicians and technologists, add additional grounds for disciplinary action and establish fees for initial permits and renewal.

Pursuant to negotiated rulemaking and public comment, the change between the text of the proposed rule change and the text of the pending rule provides for further clarification for the application of a polysomnographic trainee. The primary reason for the change was to assure the public health, safety and welfare in the state Idaho during the training period. To this end, an applicant must provide a signed affidavit from a designated person affirming and attesting he shall ensure that there is direct supervision of performance of basic polysomnography related respiratory care services by a polysomnographic trainee applicant. The direct supervisor shall be on the premises where such polysomnographic related respiratory care services are provided and shall be immediately available for consultation with the polysomnographic trainee applicant.

Pursuant to Section 67-5222 (1), Idaho Code, the Board of Medicine afforded all interested persons reasonable opportunity to submit data, views and arguments, orally and in writing, prior to adoption or amendment of this rule. This pending rule varies in content from that which was originally proposed to address the issues presented in the submitted data, views and arguments, and protect legal interests of the various health care professions. These changes have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

Pursuant to Section 67-5227, Idaho Code, this pending rule varies in content from that which was originally proposed but the subject matter remains the same, the pending rule is the logical outgrowth of the proposed rule, the original notice was written so as to assure that members of the public were reasonably notified of the subject of the Board of Medicine's action, and the members of the public were reasonably able from that notification to determine whether their interests could be affected by the Board of Medicine's action on that subject. These changes have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

Pursuant to Section 67-5228, Idaho Code, typographical, transcriptional, and/or clerical corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 381 through 395.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Sections 54-4304A (6) (a) and (b), and 54-4311, Idaho Code.

This rule establishes a broadened fee schedule to include issuance and renewal of permits for polysomnographic

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trainees, technicians and technologists. There will be no increase in fees for issuance and renewal of licenses for respiratory care practitioners.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Nancy M. Kerr, Executive Director, Idaho State Board of Medicine at (208) 327-7000.

DATED this 18th day of November, 2003.

Nancy M. Kerr  
Executive Director  
Idaho State Board of Medicine  
1755 Westgate Drive, Suite 140, Boise, Idaho 83704  
P.O. Box 83720, Boise, Idaho 83720-0058  
Telephone: (208) 327-7000  
Fax: (208) 327-7005

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### IDAPA22, TITLE 01, CHAPTER 11

#### **RULES FOR LICENSURE OF RESPIRATORY THERAPISTS AND PERMITTING OF POLYSOMNOGRAPHERS IN IDAHO**

**There are substantive changes from the proposed rule text.**

**Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.**

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 381 through 395.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

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*Language That Has Been Deleted From The Original Proposed Rule  
Has Been Removed And New Language Is Shown In Italics*

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**THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 22-0111-0301**

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### *SUBSECTIONS 010.12, 010.24, and 010.27 (Partial Section)*

#### **010. DEFINITIONS.**

~~0812.~~ **Licensure Board.** The ~~L~~icensure ~~b~~oard established by this chapter and Section ~~54-4313, Idaho Code.~~ ~~(4-28-93)~~( )

~~4724.~~ **Registered Pulmonary Function Technologist (RPFT).** The professional designation earned by a person who has successfully completed the advanced pulmonary function certification examination administered by the National Board for Respiratory Care, Inc., or an advanced pulmonary function certification examination administered by an equivalent board, recognized by the Board. ~~(4-28-93)~~( )

~~4527.~~ **Respiratory Care Practitioner.** A person who has been issued a license by the ~~b~~oard. ~~(4-28-93)~~( )

### *SUBSECTION 011.01 (Partial Section)*

#### **011. BOARD OF MEDICINE AND LICENSURE BOARD.**

**01. Powers And Duties.** The Board of Medicine shall administer, coordinate and enforce the provisions of this chapter and Title 54, Chapter 43, Idaho Code, and may issue subpoenas, examine witnesses, and administer oaths, and may investigate practices which are alleged to violate the provisions of this chapter. The Board is authorized to enter into such contracts with the National Board for Respiratory Care, Inc., Board of Registered Polysomnographic Technologists or an equivalent board, recognized by the Board, as may be necessary or advisable to provide for or to facilitate verification of any applicant's claim that such applicant has successfully completed the entry level examination and/or the written registry and clinical simulation examinations or comprehensive registry examination. The Licensure Board will work in conjunction with the Board and will perform the duties and functions assigned by the Board, including: ( )

### *SECTION 032 and SUBSECTION 032.05.e. (Partial Section)*

#### **032. APPLICATION FOR LICENSURE AND PERMITS.**

**01. All Applications.** Each applicant for licensure or permit shall submit a completed written application to the Board on forms prescribed by the Board, together with the application fee. The application shall be verified and under oath and shall require documentation of the following information: ~~(4-28-93)~~( )

#### **05. Application For Polysomnography Related Respiratory Care Practitioner.** ( )

**e.** Application for Polysomnographic Trainee. An applicant must provide a signed affidavit from an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician, an Idaho licensed respiratory care practitioner, or an Idaho licensed physician affirming and attesting he shall ensure that there is direct supervision of performance of basic polysomnography related respiratory care services by a polysomnographic trainee applicant. The direct supervisor shall be on the premises where such polysomnographic related respiratory care services are provided and shall be immediately available for consultation with the polysomnographic trainee applicant. The Affiant need not be the direct supervisor at any given time. Such Affiant shall be responsible for the activities of the supervised polysomnographic trainee and shall document his review of all patient documentation performed by the supervised polysomnographic trainee. If at any time during the term of the

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polysomnographic trainee's permit, the Affiant of the trainee changes, the polysomnographic trainee shall provide a signed affidavit from his new Affiant who will ensure that the trainee has direct supervision. In addition, the applicant shall provide written documentation he has at least one (1) of the following qualifications: ( )

#### SUBSECTIONS 035.02.m. and .02.p. (Partial Section)

#### 035. DENIAL OR REFUSAL TO RENEW LICENSE OR PERMIT OR SUSPENSION OR REVOCATION OF LICENSE OR PERMIT.

**02. Impose Sanctions.** The Board, upon recommendation of the Licensing Board, may refuse to issue a license or ~~temporary~~ permit, or to renew a license, or permit, or may suspend or revoke a license or permit, or may impose probationary conditions if the holder of a license or ~~temporary~~ permit or applicant for license or ~~temporary~~ permit has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct includes, but is not limited to: ~~(2-23-94)~~( )

**m.** In the case of practice as an individual entitled to exemption, conditional or temporary permit, the practice of respiratory care or polysomnography related respiratory care other than under the supervision of a respiratory care or appropriate polysomnography related respiratory care practitioner or licensed physician, as may be required by law; ~~(2-23-94)~~( )

**p.** Aiding or abetting a person not licensed, registered or permitted in this state or exempt from such licensure, registration or permitting, who directly or indirectly performs activities requiring a license, registration or permit; ( )

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### **IDAPA 22 - BOARD OF MEDICINE**

#### **22.01.11 - RULES FOR LICENSURE OF RESPIRATORY THERAPISTS IN IDAHO**

##### **DOCKET NO. 22-0111-0301 (FEE RULE)**

##### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1806 (2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule changes are required due to a change in the Respiratory Care Practice Act, Title 54, Chapter 43, Idaho Code. These changes will add definitions, define the requirements for application for permits for polysomnographic trainees, technicians and technologists, add additional grounds for disciplinary action and establish fees for initial permits and renewal.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: The fee schedule has been broadened, however, there will be no increase in fees for respiratory therapists but establishes permit fees for polysomnographic trainees, technicians and technologists. Authority for imposition of these fees is found in Section 54-4311, Idaho Code.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted and included representatives from the licensure board, respiratory therapy association, polysomnographers, and sleep study laboratories.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August, 2003.

Nancy M. Kerr, Executive Director  
Idaho State Board of Medicine  
1755 Westgate Drive  
PO Box 83720, Boise, ID 83720-0058  
(208) 327-7000, Fax (208) 327-7005

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#### **THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0111-0301**

#### **22.01.11 - RULES FOR LICENSURE OF RESPIRATORY THERAPISTS AND PERMITTING OF POLYSOMNOGRAPHERS IN IDAHO**

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#### 000. LEGAL AUTHORITY.

Pursuant to Sections 54-4316 and 54-4304A, Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules governing the practice of respiratory ~~therapists~~ care and polysomnography related respiratory care. (4-28-93)( )

#### 001. TITLE AND SCOPE.

**01. Title.** These rules shall be cited as IDAPA 22.01.11, "Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho". (4-28-93)( )

**02. Scope.** Pursuant to Sections 54-4304 and 54-4304A, Idaho Code, and this chapter, respiratory therapists must be licensed and polysomnographers issued a permit by the Board prior to commencement of practice and related activities. ( )

#### 002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board of Medicine, 1755 Westgate Drive, Suite 140, Box 83720 Boise, Idaho 83720-0058. ( )

#### 003. ADMINISTRATIVE APPEAL.

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General" and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine". ( )

#### 004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into this rule. ( )

#### 005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, P.O. Box 83720, Boise, Idaho 83720-0058. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 327-7005. The Board's office hours for filing documents are 8 a.m. to 5 p.m. ( )

#### 006. PUBLIC RECORD ACT COMPLIANCE.

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ( )

#### 007. FILING OF DOCUMENTS -- NUMBER OF COPIES.

All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and ten (10) copies of all documents must be filed with the office of the Board. ( )

#### 0028. -- 009. (RESERVED).

#### 010. DEFINITIONS.

**01. Act.** The Respiratory Care Practice Act of 1991, Chapter 43, Title 54, Idaho Code. (4-28-93)

**02. Applicant.** A person who applies for a license, dual license/permit, permit, conditional permit, or a temporary permit pursuant to this chapter and Title 54, Chapter 43, Idaho Code. (4-28-93)( )

**03. Board.** The Idaho State Board of Medicine, established pursuant to Section 54-1805, Idaho Code. (4-28-93)( )

**04. Board Of Registered Polysomnographic Technologists.** A nationally recognized private testing,

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examining and credentialing body for the polysomnography related respiratory care profession. ( )

**045. Certified Pulmonary Function Technologist (CPFT).** The professional designation earned by a person who has successfully completed the entry level pulmonary function certification examination administered by the National Board for Respiratory Care, Inc., or by an equivalent board, recognized by the Board. ~~(4-28-93)~~( )

**056. Certified Respiratory Therapist ~~Technician~~ (CRT~~T~~).** The professional designation earned by a person who has successfully completed the entry level examination administered by the National Board for Respiratory Care, Inc., or by an equivalent board, recognized by the Board. ~~(4-28-93)~~( )

**07. Comprehensive Registry Exam.** The comprehensive registry examination administered by the Board of Registered Polysomnographic Technologists, or administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person to the professional designation of Registered Polysomnographic Technologist (RPSGT). ( )

**08. Conditional Permit.** A time-restricted permit issued by the Board, upon the recommendation of the Licensure Board, as set forth in this chapter and Section 54-4304A, Idaho Code, to a registered polysomnographic technologist, polysomnographic technician or a polysomnographic trainee, on or after January 1, 2004, and issued until issuance of permits as provided in this chapter. ( )

**069. Entry Level Examination.** The certification examination for entry level respiratory therapy practitioners administered by the National Board for Respiratory Care, Inc., or certification examination administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person to the professional designation of "Certified Respiratory Therapist ~~Technician~~" (CRT~~T~~). ~~(4-28-93)~~( )

**10. Licensed Physician.** A physician licensed to practice medicine and surgery or osteopathic medicine and surgery, by the Idaho State Board of Medicine. ( )

**0711. Licensure.** The issuance of a license to an applicant under the provisions of this chapter and Title 54, Chapter 43, Idaho Code entitling such person to hold himself out as a respiratory care practitioner and to practice or perform respiratory care in this state. ~~(4-28-93)~~( )

**0812. Licensure Board.** The licensure board established by this chapter and Section 54-4313, Idaho Code. ~~(4-28-93)~~( )

**0913. National Board Of Respiratory Care, Inc.** ~~The~~ A nationally recognized private testing, examining and credentialing body for the respiratory care profession. ~~(4-28-93)~~( )

**104. Performance Of Respiratory Care.** Respiratory care practiced or performed in accordance with the written, telephonic or verbal prescription of a licensed physician and includes, but is not limited to, the diagnostic and therapeutic use of the following: administration of medical gases, (except for the purpose of anesthesia), aerosols and humidification; environmental control mechanisms and hyperbaric therapy, pharmacologic agents related to respiratory care protocols, mechanical or physiological ventilatory support; bronchopulmonary hygiene, cardiopulmonary resuscitation; maintenance of the natural airway; insertion and maintenance of artificial airways; specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment and research of pulmonary abnormalities, including measurements of ventilatory volumes, pressures and flows, collection, reporting and analysis of specimens of blood and blood gases, arterial punctures, insertion and maintenance of arterial lines, expired and inspired gas samples, respiratory secretions, and pulmonary function testing; and hemodynamic and other related physiologic measurements of the cardiopulmonary system, observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing and determination of whether such signs, symptoms, reactions, behavior or general response exhibit abnormal characteristics; implementation based on observed abnormalities of appropriate reporting or referral of respiratory care or changes in treatment regimen, pursuant to a prescription by a physician or the initiation of emergency procedures. (4-28-93)

**15. Permit.** The issuance of a permit to an applicant under the provisions of this chapter and Section 54-4304A, Idaho Code, entitles such person to hold himself out as a registered polysomnographic technologist,

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polysomnographic technician, or polysomnographic trainee and to perform polysomnography related respiratory care in this state. ( )

~~146.~~ **Person.** A natural living human individual. (4-28-93)( )

**17. Polysomnographic Technician.** A person who holds a permit as set forth in this chapter and Section 54-4304A, Idaho Code, and who performs polysomnography related respiratory care services under the supervision of an Idaho permitted registered polysomnographic technologist, licensed respiratory care practitioner or an Idaho licensed physician. ( )

**18. Polysomnographic Trainee.** A person who holds a temporary permit as set forth in this chapter and Section 54-4304A, Idaho Code, and who performs polysomnography related respiratory care services under the direct supervision of an Idaho licensed respiratory care practitioner, or a person exempt from such licensure pursuant to this chapter and Section 54-4308, Idaho Code, an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician or an Idaho licensed physician. Direct supervision by an Idaho licensed respiratory care practitioner, or such person exempt from such licensure pursuant to this chapter and Section 54-4308, Idaho Code, or an Idaho permitted registered polysomnographic technologist or technician, or an Idaho licensed physician, means that such a person shall be on the premises where such polysomnographic related respiratory care services are provided and shall be immediately available for consultation with the polysomnographic trainee. ( )

**19. Polysomnography.** The process of analysis, attended monitoring and recording of physiologic data during sleep and wakefulness to assist in the assessment and diagnosis of sleep/wake disorders and other disorders, syndromes and dysfunctions that either are sleep related, manifest during sleep or disrupt normal sleep/wake cycles and activities. ( )

**20. Polysomnography Related Respiratory Care Services.** The limited practice of respiratory care in the provision of polysomnography services, under the supervision of an Idaho licensed physician, by a person at a sleep disorder center or laboratory who holds a permit issued by the Board, as a registered polysomnographic technologist, polysomnographic technician or a polysomnographic trainee, or who is otherwise licensed as a respiratory care practitioner or who is exempt from licensure or permitting pursuant to this chapter and Section 54-4308, Idaho Code. Polysomnography related respiratory care services include therapeutic and diagnostic use of oxygen, noninvasive ventilatory assistance of spontaneously breathing patients and cardiopulmonary resuscitation and maintenance of nasal and oral airways that do not extend into the trachea, as ordered by an Idaho licensed physician or by written procedures and protocols of the associated sleep disorder center or laboratory as approved by an Idaho licensed physician and which do not violate any rules adopted by the Board. This chapter does not in any way authorize the practice of medicine or any of its branches by any person not so licensed by the Board. Further, licensed respiratory practitioners, and those exempt from licensure pursuant to this chapter and Section 54-4308, Idaho Code, are not limited in their scope of practice of provision of respiratory care, which they may provide, including care in connection with the provision of polysomnography services. ( )

~~421.~~ **Practice Of Respiratory Care.** Means, but shall not be limited to, the provision of respiratory and inhalation therapy which shall include, but not be limited to: therapeutic and diagnostic use of medical gases, humidity and aerosols including the maintenance of associated apparatus; administration of drugs and medications to the cardiorespiratory system; provision of ventilatory assistance and ventilatory control; postural drainage, percussion, breathing exercises and other respiratory rehabilitation procedures; cardiopulmonary resuscitation and maintenance of natural airways, the insertion and maintenance of artificial airways; and the transcription and implementation of a physician's written, telephonic or verbal orders pertaining to the practice of respiratory care. It also includes testing techniques employed in respiratory care to assist in diagnosis, monitoring, treatment and research. This shall be understood to include, but not be limited to, measurement of ventilatory volumes, pressures and flows, specimen collection of blood and other materials, pulmonary function testing and hemodynamic and other related physiological monitoring of the cardiopulmonary system. The practice of respiratory care is not limited to the hospital setting but shall be performed under the general supervision of a licensed physician. (4-28-93)

~~422.~~ **Respiratory Care Protocols.** Policies, procedures or protocols developed or instituted by health care facilities or institutions, through collaboration when appropriate or necessary with administrators, physicians, registered nurses, physical therapists, respiratory care practitioners and other licensed, certified or registered health

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care practitioners.

(4-28-93)

**23. Registered Polysomnographic Technologist (RPSGT).** The professional designation earned by a person who has successfully completed the comprehensive registry examination administered by the Board of Registered Polysomnographic Technologists, or by an equivalent board, recognized by the Board, and who holds a permit as set forth in this chapter and Section 54-4304A, Idaho Code, and who works under the supervision of an Idaho licensed physician to provide polysomnography related respiratory care services. ( )

**424. Registered Pulmonary Function Technologist (RPFT).** The professional designation earned by a person who has successfully completed the advanced pulmonary function certification examination administered by the National Board for Respiratory Care, Inc. (4-28-93)

**425. Registered Respiratory Therapist (RRT).** The professional designation earned by a person who has successfully completed the written registry and clinical simulation examinations administered by the National Board for Respiratory Care, Inc., or certification examinations administered by an equivalent board, recognized by the Board. (4-28-93)( )

**426. Respiratory Care.** Allied health profession responsible for the treatment, management, diagnostic testing, control and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system, under the general supervision of a licensed physician. (2-23-94)

**427. Respiratory Care Practitioner.** A person who has been issued a license by the board. (4-28-93)

**428. Respiratory Therapist.** A person who practices or provides respiratory care. (4-28-93)

**209. Respiratory Therapy.** The practice or performance of respiratory care, including but not limited to, inhalation therapy. (4-28-93)

**30. Sleep Disorder Center Or Laboratory.** A facility for sleep related disorders that provides polysomnography and is under the supervision of an Idaho licensed physician or medical director licensed by the Board who is responsible for patient care provided in such center or laboratory. A sleep disorder center or laboratory that provides polysomnography related respiratory care to patients shall have an Idaho licensed respiratory care practitioner, an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician, or a person exempt from licensure or permitting pursuant to this chapter and Section 54-4308, Idaho Code, in constant attendance. ( )

**431. Supervision Of Respiratory Care.** The practice or provision of respiratory care by individuals holding a student or consulting and training exemption, or temporary permit shall be in direct association with a respiratory care practitioner or licensed physician who shall be responsible for the activities of the person being supervised and shall review and countersign all patient documentation performed by the individual being supervised. The supervising respiratory care practitioner or licensed physician need not be physically present or on the premises at all times but must be available for telephonic consultation. The extent of communication between the supervising or consulting respiratory care practitioner or licensed physician and the individual being supervised shall be determined by the competency of the individual, the treatment setting, and the diagnostic category of the client. (2-23-94)( )

**32. Temporary Permit.** The Board may issue a temporary permit, limited to a total period of two (2) years, including initial and renewal, to a respiratory care practitioner applicant who meets the requirements set forth in this chapter and Section 54-4307, Idaho Code. The Board may issue a temporary permit, limited to a total period of two (2) years, including initial and renewal, to a polysomnographic trainee applicant who meets the requirements set forth in this chapter and Section 54-4304A, Idaho Code. ( )

**2433. Written Registry And Clinical Simulation Examinations.** The certification examinations administered by the National Board of Respiratory Care, Inc., or certification examinations administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person the professional designation of "Registered Respiratory Therapist" (RRT). (4-28-93)( )

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#### **011. BOARD OF MEDICINE AND LICENSURE BOARD.**

**01. Powers And Duties.** The Board of Medicine shall administer, coordinate and enforce the provisions of this chapter and Title 54, Chapter 43, Idaho Code, evaluate the qualifications, and may issue subpoenas, examine witnesses, and administer oaths, and may investigate practices which are alleged to violate the provisions of this chapter. The Board is authorized to enter into such contracts with the National Board for Respiratory Care, Inc., Board of Registered Polysomnographic Technologists or an equivalent board, recognized by the Board, as may be necessary or advisable to provide for or to facilitate verification of any applicant's claim that such applicant has successfully completed the entry level examination and/or the written registry and clinical simulation examinations or comprehensive registry examination. The Licensure Board will work in conjunction with the Board and will perform the duties and functions assigned by the Board, including: ( )

**a.** Holding meetings, conducting interviews and keeping records and minutes as are necessary to carry out its functions. ( )

**b.** Evaluating the qualifications of all applicants, making recommendations to and consulting with the Board concerning issuing, renewing and revoking licenses and permits. ( )

**c.** Performing investigations of misconduct and making recommendations regarding discipline to the Board. ( )

**d.** Maintaining a list of respiratory care and polysomnography related respiratory care practitioners currently holding a license or permit in this state. ( )

**02. Membership.** The Licensure Board shall consist of five (5) members appointed by the Board, three (3) of whom shall be certified respiratory care practitioners, one (1) of whom, in addition to being an Idaho licensed respiratory care practitioner, shall also be an Idaho permitted registered polysomnographic technologist. All members shall be residents of Idaho at the time of their appointment and for their term of service. The persons appointed to the Licensure Board who are required to be licensed or hold permits under this chapter shall have been engaged in rendering respiratory care services and polysomnography related respiratory care services, respectively, to the public, in teaching, or in research in respiratory care and polysomnography related respiratory care services, respectively, for at least five (5) years immediately preceding their appointments. Three (3) members shall at all times be holders of valid licenses for the practice of respiratory care in Idaho and one (1) member shall also be a holder of a valid Idaho permit as a registered polysomnographic technologist, except for the members of the first Licensure Board following the effective date of this chapter, all of whom shall, at the time of appointment, hold the designation of certified respiratory therapy technician or registered respiratory therapist conferred by the National Board for Respiratory Care, Inc., and all of whom meet the requirements for licensure under the provisions of this chapter. The remaining two (2) members of the Licensure Board shall be members of health professions or members of the public with an interest in the rights of the consumers of health services. Each member of the Licensure Board shall be compensated as provided in Section 59-509(h), Idaho Code. ( )

**03. Appointment.** The two (2) members of the Licensure Board who shall be licensed respiratory care practitioners shall be selected by the Board after considering a list of three (3) qualified applicants for each such vacancy submitted by the Idaho Society of Respiratory Care or other interested associations. The member of the Licensure Board who shall be a licensed respiratory care practitioner and an Idaho permitted registered polysomnographic technologist shall be selected by the Board after considering a list of three (3) qualified applicants submitted by the Idaho Sleep Disorder Association or other interested associations. In the event of a vacancy in one (1) of the positions, the Idaho Society of Respiratory Care or other interested association may recommend, as soon as practical, at least two (2) and not more than three (3) persons to fill that vacancy. The Board shall appoint, as soon as practical, one (1) person, who shall fill the unexpired term. If recommendations are not made within sixty (60) days of notification and request, the Board may make appointments of any qualified individual. The remaining two (2) public members shall be selected by the Board, who may solicit nominations of qualified applicants submitted by the Idaho Society For Respiratory Care, the Idaho Sleep Disorder Association or other interested associations or individuals. The first vacancy on the Licensure Board which occurs following the effective date of this chapter shall be filled by the appointment of a licensed respiratory care practitioner who is also the holder of a valid Idaho permit as a registered polysomnographic technologist. The Board may remove any Licensure Board member for misconduct, incompetence, or neglect of duty after giving the member a written statement of the charges and an opportunity to be

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heard thereon. The Executive Director of the Idaho State Board of Medicine shall serve as the Executive Director to the Licensure Board. ( )

**04. Meetings.** The Licensure Board shall hold biannual meetings and elect a chairman who shall preside at meetings of the Licensure Board. In the event the chairman is not present at any Licensure Board meeting, the Licensure Board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the Licensure Board shall constitute a quorum. Other meetings may be convened at the call of the chairman or the written request of any two (2) Licensure Board members. ( )

**05. Terms.** All appointments shall be for three (3) year terms, but no person shall be appointed to serve more than two (2) consecutive terms. Terms shall begin on the first day of the appointment or when successors are appointed. ( )

#### **012. APPLICATION TO BOTH PERMITS AND LICENSES.**

The provisions of this chapter governing procedures for suspension and revocation of licenses, payment and assessment of fees and governing misrepresentation, penalties and severability and other administrative procedures shall apply equally to permits for the practice of polysomnography related respiratory care services as to licenses for the practice of respiratory care. ( )

~~0143.~~ -- 030. (RESERVED).

#### **031. GENERAL PROVISIONS FOR LICENSURE AND PERMITS.**

**01. Moral Character.** An applicant for licensure must be of good moral character and shall meet the requirements set forth in Section 54-4306, Idaho Code. An applicant for a permit must be of good moral character and shall meet the requirements set forth in Section 54-4304A, Idaho Code. The Board may refuse licensure or to issue a permit if it finds the applicant has engaged in conduct prohibited by Section 54-4312, Idaho Code, providing the Board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. (2-23-94)( )

~~**02. Office.** Applications can be obtained from the central office of the Board, which will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be the Idaho State Board of Medicine, P.O. Box 83720, Boise, Idaho 83720-0058. The telephone number of the Board is (208) 334-2822. A TDD or telecommunications device for the deaf is available at (208) 377-3529. The Board's facsimile (FAX) number is (208) 334-2801.~~ (2-23-94)

**032. No Action On Application.** An application upon which the applicant takes no further action will be held for no longer than one (1) year. (4-28-93)

#### **032. APPLICATION FOR LICENSURE AND PERMITS.**

**01. All Application.** Each applicant for licensure or permit shall submit a completed written application to the Board on forms prescribed by the Board, together with the application fee. The application shall be verified and under oath and shall require documentation of the following information: (4-28-93)( )

**ea.** The disclosure of any criminal conviction or charges against the applicant other than minor traffic offenses; and (2-23-94)

**eb.** The disclosure of any charge, investigation or disciplinary action against the applicant by any state professional regulatory agency or professional organization that bears a demonstrable relationship to the ability of the applicant to practice in accordance with the provisions of this chapter; and (2-23-94)( )

**ec.** The disclosure of the denial of registration or licensure by any state or district regulatory body; and (2-23-94)

**fd.** Not less than two (2) certificates of recommendation from persons, other than relatives or individuals living with the applicant, who have personal knowledge of at least one (1) year of the applicant's

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character and the applicant's ability to work as a respiratory therapist or provide polysomnography related respiratory care services; and (2-23-94)( )

~~g.~~ One (1) unmounted photograph of the applicant, no larger than three by four inch (3" x 4") (head and shoulders), taken not more than one (1) year prior to the date of the application; and (2-23-94)

~~h.~~ Such other information as deemed reasonably necessary and as is lawful for the Board to identify and evaluate the applicant's credentials; and (4-28-93)( )

~~i.~~ Evidence that applicant is no less than eighteen (18) years of age; (2-23-94)( )

~~j.~~ The Board may, at its discretion, require the applicant to appear for a personal interview; (2-23-94)( )

#### 02. Application For Respiratory Care Practitioner. ( )

~~a.~~ Documentation of ~~E~~evidence that applicant has passed the entry level examination and is a Certified Respiratory Therapist ~~Technician~~ (CRT~~F~~) or has successfully completed the written registry and clinical simulation examinations and is a Registered Respiratory Therapist (RRT); or (2-23-94)( )

~~b.~~ Documentation that the applicant ~~is~~ licensed as a respiratory care practitioner, or the equivalent at the discretion of the ~~h~~Board, in another state, district or territory of the United States; ~~and~~ (2-23-94)( )

~~02c.~~ Application for Temporary Permit. The Board may issue a temporary permit to an applicant who meets the requirements set forth ~~by~~ in this chapter and Section 54-4307, Idaho Code. A temporary permit shall authorize the practice of respiratory care under the supervision of a respiratory care practitioner or licensed physician. (2-23-94)( )

~~a.i.~~ A temporary permit for a respiratory care practitioner may be converted to a permanent license by providing to the Board, verification of appropriate certification as a Certified Respiratory Therapist ~~Technician~~ (CRT~~F~~) or Registered Respiratory Therapist (RRT). (2-23-94)( )

~~b.ii.~~ A temporary permit shall be effective for one (1) year from the date of issuance. (4-28-93)

~~c.iii.~~ A temporary permit may be renewed one (1) time for a period of one (1) year, upon application to the Board. (4-28-93)

~~iv.~~ Application for a temporary permit shall be made to the Board on a form prescribed by the Board, together with the application fee. ( )

03. Application For Inactive License. A person holding a current license issued by the Board to practice as a respiratory care practitioner may be issued, upon written application provided by the Board and payment of required fees to the Board, an inactive license on the condition that he will not engage in the provision of respiratory care services as a respiratory care practitioner in this state. ( )

a. Issuance and Renewal. Inactive licenses shall be issued for a period of not more than five (5) years and such licenses shall be renewed upon payment of an inactive license renewal fee of no more than fifty dollars (\$50) for each renewal year. Such inactive licenses shall expire on the expiration date printed on the face of the certificate unless renewed. ( )

b. Inactive to Active License. An inactive license may be converted to an active license to practice as a respiratory care practitioner upon written application and payment of active licensure fees for each inactive year minus paid inactive fees plus a conversion fee of no more than fifty dollars (\$50) to the Board. The applicant must account for the time during which an inactive license was held and document continuing competence. The Board may, in its discretion, require a personal interview to evaluate the applicant's qualifications. In addition, the Board may require evidence of an educational update and close supervision to assure safe and qualified performance. ( )

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#### **04. Application For Respiratory Care And Polysomnography Related Respiratory Care Practitioner.** ( )

**a.** The Board may issue a dual license/permit to an applicant who meets the requirements set forth in this chapter and Sections 54-4306 and 54-4304A(2) and (3), Idaho Code. A dual license/permit shall authorize the holder to perform respiratory care and polysomnography related respiratory care in this state. ( )

**b.** Application for a dual license/permit shall be made to the Board on a form prescribed by the Board, together with the application fee. ( )

**c.** Such dual license/permit shall expire on the expiration date printed on the face of the certificate unless renewed. ( )

#### **05. Application For Polysomnography Related Respiratory Care Practitioner.** ( )

**a.** Only persons who are licensed as respiratory care practitioners or who are exempt from licensure pursuant to the chapter and Section 54-4308, Idaho Code, or who hold a permit issued by the Board as registered polysomnographic technologists, polysomnographic technicians or polysomnographic trainees may provide polysomnography related respiratory care services. ( )

**b.** Qualifications for permit. An applicant for a permit to provide polysomnography related respiratory care services as a registered polysomnographic technologist or polysomnographic technician or for a temporary permit as a polysomnographic trainee under the provisions of Section 032 who is not otherwise licensed to provide respiratory care services or exempt from the requirements of this chapter pursuant to Section 54-4308, Idaho Code, must provide documentation of: ( )

**i.** Being a high school graduate or have passed a general educational development (GED) examination and earned a GED certificate; and ( )

**ii.** Being currently certified in cardiopulmonary resuscitation (CPR). ( )

**c.** Application for Registered Polysomnographic Technologist. An applicant must provide documentation of successful completion of the comprehensive registry examination as a registered polysomnographic technologist administered by the Board of Registered Polysomnographic Technologists or an equivalent examination, approved by the Board as recommended by the Licensure Board. ( )

**d.** Application For Polysomnographic Technician. An applicant must provide written documentation and a signed affidavit affirming and attesting to one (1) of the following qualifications: ( )

**i.** Successful completion of a polysomnography program of not less than one (1) year duration, associated with a state licensed or a nationally accredited educational facility, as approved by the Board, as recommended by the Licensure Board; or ( )

**ii.** Successful completion of a minimum of seven hundred twenty (720) hours of experience as a polysomnographic trainee with documented proficiency in polysomnography related respiratory care services, as approved by the Board, as recommended by the Licensure Board. ( )

**e.** Application for Polysomnographic Trainee. An applicant must provide a signed affidavit from an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician, an Idaho licensed respiratory care practitioner, or an Idaho licensed physician affirming and attesting he shall provide for the direct supervision of performance of basic polysomnography related respiratory care services by a polysomnographic trainee applicant. Direct supervision means that such a person shall be on the premises where such polysomnography related respiratory care services are provided and shall be immediately available for consultation with the polysomnographic trainee applicant. Such Affiant shall be responsible for the activities of the supervised polysomnographic trainee and shall document his review of all patient documentation performed by the supervised polysomnographic trainee. If at any time during the term of the polysomnographic trainee's permit, the Affiant

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providing for the direct supervision changes, the polysomnographic trainee shall provide a signed affidavit from his new Affiant providing for the direct supervision. Affiant shall provide written documentation the applicant has at least one (1) of the following qualifications: ( )

i. At least seven hundred twenty (720) hours of experience as a paid employee or contractor in a health care related field. For the purposes of this Section, experience as a paid employee or contractor in a health care related field shall include any work providing direct clinical care to patients or having worked in a clinical care setting in which the applicant had direct interaction with patients, and an opportunity to observe the provision of clinical care to patients; ( )

ii. Current enrollment in a polysomnography program associated with a state licensed or a nationally accredited education facility; or ( )

iii. Successful completion of twenty-four (24) semester credit hours (or a quarter (1/4) hour system equivalent of the same) of postsecondary education at a state licensed or nationally accredited facility. ( )

f. Permits. All permits shall be issued after applicants have met the requirements of this chapter and Section 54-4304A, Idaho Code and submitted a completed application and payment of a fee in an amount to be fixed by the Board for a period of not less than one (1) year nor more than five (5) years, the exact period to be fixed by the Board. Such permits shall expire on the expiration date printed on the face of the certificate unless renewed. The failure of any person to renew a renewable permit shall not deprive such person of the right to renewal, except as provided for herein and Section 54-4312, Idaho Code. The Board shall collect a fee in an amount to be fixed by the Board for the initial issuance and each renewal year. ( )

i. Permits for registered polysomnographic technologists, including renewals, shall be issued for a period of not less than one (1) year nor more than five (5) years. Such permits shall be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee. ( )

ii. Permits for polysomnographic technicians, including renewals, shall be issued for a period of one (1) year, and shall be renewed for successive one (1) year periods, not to exceed three (3) renewals for a total period of four (4) years. Such permits shall be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee. ( )

iii. Temporary permits for polysomnographic trainees shall be issued for a period of not more than one (1) year, the exact period to be fixed by the Board. Such permits may be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee, for a period of one (1) year, with renewal limited to one (1) such renewal, provided however, such permits for polysomnographic trainees shall be limited to a total period of two (2) years. ( )

iv. Reinstatement after failure to renew. Permits canceled for nonpayment of renewal fees may be reinstated by filing a completed request for renewal with the Board and paying a reinstatement fee, and back renewal fees. ( )

v. Reapplication after failure to renew. A registered polysomnographic technologist, whose permit has been canceled for failure to renew for a period of more than two (2) years, shall be required to make application to the Board as a new applicant for a permit. A polysomnographic technician, whose permit has been canceled for failure to renew for a period of more than one (1) year, shall be required to make application to the Board as a new applicant for a permit. Temporary permits for polysomnographic trainees whose permits have been canceled for failure to renew for a period of more than six (6) months shall be required to make application to the Board as new applicants for permits. ( )

vi. Continuing education. Each individual applicant for renewal of an active permit shall, on or before the expiration date of the permit, submit satisfactory proof to the Licensure Board of successful completion of not less than twelve (12) hours of approved continuing education pertaining to the provision of polysomnographic-related respiratory care per year in addition to any other requirements for renewal as adopted by the Board. The Board, as recommended by the Licensure Board, may substitute all or a portion of the coursework required in Section 032 when an applicant for renewal shows evidence of passing an approved challenge exam or of completing equivalent

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education as determined by the Board, as recommended by the Licensure Board, to be in full compliance with the education requirements of this chapter. ( )

g. Conditional Permits. Any individual who desires to provide polysomnography related respiratory care services as described in Section 54-4304A, Idaho Code, and this chapter and who meets the requirements of Subsection 032.03, as well as the necessary requirements in Subsections 032.05.g.i. through 032.05.g.iv., may make application for a conditional permit. Conditional permits shall be issued on or after January 1, 2004, as outlined in Section 54-4304A(8), Idaho Code, and shall be issued until the Board has adopted rules as may be required for the issuance of regular permits as provided in this chapter and has had an opportunity to process applications for such regular permits. ( )

#### 033. LICENSURE EXEMPTION FOR RESPIRATORY CARE PRACTITIONERS.

The Board may grant licensure exemption to ~~a~~ respiratory care practitioner applicant who meets the requirements set forth by Section 54-4308, Idaho Code. Individuals requesting exempt status must provide to the Board, satisfactory proof of the existence of facts entitling the person to the exemption. Conditions for which individuals may be granted exemptions include the following: ~~(2-23-94)~~( )

**01. Pulmonary Function Technologists.** Certified or registered pulmonary function technologists who carry out only those professional duties and function for which they have been specifically trained. (2-23-94)

**02. Respiratory Therapy Students.** Individuals actively attending a full-time supervised course of study in an approved educational program leading to a degree or certificate in respiratory care. This exemption shall cease to exist if the individual fails to attend the approved course of study for a period of time in excess of one-hundred twenty (120) consecutive calendar days and immediately upon receipt of the degree or certificate for which such person pursued the course of study. The practice or provision of respiratory care by such individuals must be supervised by a respiratory care practitioner or licensed physician. (2-23-94)

**03. Consulting And Training.** For purposes of continuing education, consulting, or training for a period not to exceed thirty (30) days in a calendar year, provided that the individual meets the requirements in Section 54-4308(1)(e), Idaho Code. The practice or provision of respiratory care by such individuals must be supervised by a respiratory care practitioner or licensed physician. (2-23-94)

#### 034. LICENSE EXPIRATION AND RENEWAL.

All licenses shall ~~expire on the 30th day of June following issuance or renewal~~ be issued for a period of not less than one (1) year nor more than five (5) years, the exact period to be fixed by the Board and shall become invalid after that date on the expiration date printed on the face of the certificate of the license unless renewed. The failure of any person to renew his renewable license shall not deprive such person of the right to renewal, except as provided for herein and Section 54-4312, Idaho Code. The Board shall collect a fee for each renewal year of a license. ~~(4-28-93)~~( )

**01. Annual Renewal.** Each license shall be renewed ~~annually before July 1st~~ by submitting a completed request for renewal form accompanied by payment of the renewal fee to the Board. Licenses not renewed by the expiration date shall be canceled. ~~(4-28-93)~~( )

**02. Reinstatement.** Licenses canceled for nonpayment of ~~yearly~~ renewal fees may be reinstated by filing a completed request for renewal with the Board and paying a reinstatement fee, and back renewal fees. ~~(2-23-94)~~( )

**03. Reapplication.** A person whose license has been canceled for a period of more than five (5) years, shall be required to make application to the Board as a new applicant for licensure. (2-23-94)

**04. Continuing Education.** Prior to renewal each applicant for renewal shall submit evidence of successfully completing no less than twelve (12) clock hours of continuing education acceptable to the Board. Continuing education for licensure renewal must be germane to the practice or performance of respiratory care. Appropriate continuing professional education activities include but are not limited to, the following: (2-23-94)

**a.** Attending or presenting at conferences, seminars or inservice programs. (2-23-94)

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- b. Formal course work in Respiratory Therapy related subjects. (2-23-94)

**035. DENIAL OR REFUSAL TO RENEW LICENSE OR PERMIT OR SUSPENSION OR REVOCATION OF LICENSE OR PERMIT.**

**01. Discipline.** A new or renewal application may be denied, and every person licensed or issued a permit pursuant to Title 54, Chapter 43, Idaho Code and these rules is subject to discipline, pursuant to the procedures and powers established by and set forth in Section 54-4312, Idaho Code; the Administrative Procedures Act, and IDAPA 22.01.07, "Rules of Practice and Procedure in Contested Cases of the Board of Medicine". ~~(2-23-94)~~(\_\_\_\_)

**02. Impose Sanctions.** The Board, upon recommendation of the Licensing Board, may refuse to issue a license or ~~temporary~~ permit, or to renew a license, or permit, or may suspend or revoke a license or permit, or may impose probationary conditions if the holder of a license or ~~temporary~~ permit or applicant for license or ~~temporary~~ permit has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct includes, but is not limited to: ~~(2-23-94)~~(\_\_\_\_)

a. Obtaining any license or ~~temporary~~ permit by means of fraud, misrepresentation or concealment of material facts; ~~(4-28-93)~~(\_\_\_\_)

b. Being guilty of unprofessional conduct as defined by the rules of the Board, or violating the code of ethics adopted and published by the Board, a copy of which is attached to these rules; (2-23-94)

c. Being convicted of a crime which would have a direct and adverse bearing on the individual's ability to practice or perform respiratory care or polysomnography related respiratory care competently; ~~(4-28-93)~~(\_\_\_\_)

d. The unauthorized practice of medicine; (4-28-93)

e. Violating any provisions of this chapter or any of the rules promulgated by the Board under the authority of this chapter; (4-28-93)

f. Being found mentally incompetent by a court of competent jurisdiction or unfit by the Board to provide respiratory care or polysomnography related respiratory care; ~~(4-28-93)~~(\_\_\_\_)

g. Providing respiratory care or polysomnography related respiratory care which fails to meet the standard of health care provided by other qualified respiratory therapists or respiratory therapy technicians or registered polysomnographic technologists, polysomnographic technicians or polysomnographic trainees in the same community or similar communities; ~~(2-23-94)~~(\_\_\_\_)

h. Using any controlled substance or alcohol to the extent that use impairs the ability to practice respiratory care or polysomnography related respiratory care at an acceptable level of competency; ~~(2-23-94)~~(\_\_\_\_)

i. Employing, directing or supervising the unlicensed practice of respiratory care or those not holding a permit to provide polysomnography related respiratory care; ~~(2-23-94)~~(\_\_\_\_)

j. Practicing in an area of respiratory care or polysomnography related respiratory care for which the individual is not trained; ~~(2-23-94)~~(\_\_\_\_)

k. Failure to supervise the activities of individuals who hold exemptions, conditional or temporary permits; ~~(2-23-94)~~(\_\_\_\_)

l. Delegation to an unqualified person of any services which require the skill, knowledge, and judgment of a respiratory care or polysomnography related respiratory care practitioner; ~~(2-23-94)~~(\_\_\_\_)

m. In the case of practice as an individual entitled to exemption, conditional or temporary permit, the practice respiratory care or polysomnography related respiratory care other than under the supervision of a respiratory

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care or appropriate polysomnography related respiratory care practitioner or licensed physician; ~~(2-23-94)~~( )

n. Misrepresenting educational or experience attainments. ~~(2-23-94)~~( )

o. Commission of any act of sexual contact, misconduct, exploitation or intercourse with a patient or former patient or related to the licensee's or permittee's provision of respiratory care or polysomnography related respiratory care; ( )

i. Consent of the patient shall not be a defense; ( )

ii. Subsection 035.02.o. shall not apply to sexual contact between a respiratory care or polysomnography related respiratory care practitioner and the spouse or a person in a domestic relationship who is also a patient; ( )

iii. A former patient includes a person for whom the respiratory care or polysomnography related respiratory care practitioner has provided respiratory care or polysomnography related respiratory care within the last twelve (12) months; ( )

iv. Sexual or romantic relationship with a former patient beyond the period of time set forth herein may also be a violation if the respiratory care or polysomnography related respiratory care practitioner uses or exploits the trust, knowledge, emotions or influence derived from the prior professional relationship with the patient; ( )

p. Aiding or abetting a person not licensed, registered or permitted in this state who directly or indirectly performs activities requiring a license, registration or permit; ( )

q. Failing to report to the Board any known act or omission of a licensee, permittee, applicant, or any other person, that violates any provision of this chapter; ( )

r. Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding, investigation or other legal action; or ( )

s. Failing to maintain patient confidentiality unless otherwise required or permitted by law. ( )

036. -- 045. (RESERVED).

#### 046. FEES.

Actual fees shall be set to reflect real costs of Board administration. Fees authorized under this chapter shall be used solely to carry out the purposes of this chapter including the provisions of Section 54-4317, Idaho Code. Each applicant shall be responsible for the payment of any fee charged by the National Board for Respiratory Care, Inc., Board of Registered Polysomnographic Technologists or an equivalent board, recognized by the Board,

~~(4-28-93)~~( )

01. Licensure And Permit Fees For Respiratory Care Practitioners. ( )

~~01a.~~ Initial Licensure Fee. The fee for initial licensure, which may be prorated pursuant to Section 54-4309, Idaho Code, shall be no more than ninety dollars (\$90). ~~(4-28-93)~~( )

~~02b.~~ Reinstatement Fee. The reinstatement fee for a lapsed license shall be the ~~annual~~ renewal for each year not licensed plus a fee of thirty-five dollars (\$35). ~~(2-23-94)~~( )

c. Inactive Fee - Reactivate Fee. The fee for converting an active license to an inactive license shall be no more than fifty dollars (\$50). An inactive license may be converted to an active license to practice as a respiratory care practitioner upon written application and payment of active licensure fees for each inactive year minus paid inactive fees plus a conversion fee of no more than fifty dollars (\$50) to the Board. ( )

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~~04d.~~ *Annual* Renewal Fee. The ~~annual~~ renewal fee shall be no more than seventy dollars (\$70).  
(4-28-93)( )

~~03e.~~ Temporary Permit Fee. The fee for a temporary permit shall be no more than ninety dollars (\$90).  
(2-23-94)

**02. Permit Fees For Polysomnography Related Respiratory Care Practitioners.** ( )

**a.** Initial Permit Fee. The fee for an initial permit for a registered polysomnographic technologist or a polysomnographic technician shall be no more than ninety dollars (\$90). The fee for an initial permit for a polysomnographic trainee shall be no more than forty-five dollars (\$45). ( )

**b.** Reinstatement Fee. The reinstatement fee for a lapsed permit for a registered polysomnographic technologists or a polysomnographic technician shall be the renewal fee for each year not holding an active permit plus a fee of thirty-five dollars (\$35). ( )

**c.** Renewal Fee. The renewal fee for an active permit for a registered polysomnographic technologist and polysomnographic technician shall be no more than seventy dollars (\$70). The renewal fee for an active permit for a polysomnographic trainee shall be no more than thirty-five dollars (\$35). ( )

**d.** Temporary Permit Fee. The fee for a temporary permit for a registered polysomnographic technologist and polysomnographic technician shall be no more than ninety dollars (\$90). The fee for a temporary permit for a polysomnographic trainee shall be no more than forty-five dollars (\$45). ( )

**e.** Conditional Permit Fee. The fee for a conditional permit for a registered polysomnographic technologist and polysomnographic technician shall be no more than ninety dollars (\$90). The fee for a conditional permit for a polysomnographic trainee shall be no more than forty-five dollars (\$45). Conditional permits will issue on or after January 1, 2004, and will issue until issuance of regular permits as provided in this chapter. ( )

**03. Dual Licensure/Permit Fees For Practitioners Of Respiratory And Polysomnography Related Respiratory Care.** ( )

**a.** Initial Licensure/Permit Fee. The fee for initial issuance of a dual license/permit, which may be prorated pursuant to Section 54-4309, Idaho Code, shall be no more than ninety dollars (\$90). A person holding a current license or permit, if qualified, may apply for and obtain a dual license/permit without paying an additional fee. ( )

**b.** Reinstatement Fee. The reinstatement fee for a dual license/permit that has lapsed shall be the renewal for each year not dually licensed/permitted plus a fee of thirty-five dollars (\$35). ( )

**c.** Renewal Fee. The renewal fee shall be no more than seventy dollars (\$70). Renewal shall be required upon the expiration of either the permit or the license, whichever expires first if the two (2) initially shall not have been obtained at the same time. ( )

**054. General Fee Information.** (4-28-93)

**a.** Necessary fees shall accompany applications. (4-28-93)

**b.** Fees shall not be refundable. (4-28-93)

**c.** In those situations where the processing of an application requires extraordinary expenses, the Board may charge the applicant with reasonable fees to cover all or part of the extraordinary expenses. (4-28-93)

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. CODE OF ETHICS.**

**01. Method Of Treatment.** The Respiratory Care and Polysomnography Related Respiratory Care Practitioner shall practice medically acceptable methods of treatment and shall not endeavor to extend his practice beyond his competence and the authority vested in him by the physician. (2-23-94)(\_\_\_\_)

**02. Commitment To Self-Improvement.** The Respiratory Care and Polysomnography Related Respiratory Care Practitioner shall continually strive to increase and improve his knowledge and skills and render to each patient the full measure of his ability. All service shall be provided with respect for the dignity of the patient, unrestricted by considerations of social or economic status, personal attributes, or the nature of health problems. (2-23-94)(\_\_\_\_)

**03. Confidentiality.** The Respiratory Care and Polysomnography Related Respiratory Care Practitioner shall hold in strict confidence all privileged information concerning the patient ~~and refer all inquiries to the physician in charge of the patient's medical care~~ except as disclosure or use of information as permitted or required by law. (2-23-94)(\_\_\_\_)

**04. Gratuities.** The Respiratory Care and Polysomnography Related Respiratory Care Practitioner shall not accept gratuities for preferential consideration of the patient; ~~he or she~~ and shall guard against conflicts of interest. (2-23-94)(\_\_\_\_)

**05. Professionalism.** The Respiratory Care and Polysomnography Related Respiratory Care Practitioner shall uphold the dignity and honor of the profession and abide by its ethical principles. ~~He or she~~ and should be familiar with existing state and federal laws governing the practice of respiratory care and polysomnography related respiratory care and comply with those laws. (2-23-94)(\_\_\_\_)

**06. Cooperation And Participation.** The Respiratory Care and Polysomnography Related Respiratory Care Practitioner shall cooperate with other health care professionals and participate in activities to promote community and national efforts to meet the health needs of the public. (2-23-94)(\_\_\_\_)

**101. -- 999. (RESERVED).**

## **2004 - Health and Welfare Senate Pending Fee Rule (Green)**

### **IDAPA 27 - BOARD OF PHARMACY**

#### **27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY**

**DOCKET NO. 27-0101-0302**

#### **NOTICE OF RULEMAKING - PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-1706, 54-1717, and 54-1719(1) and (4), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the June 4, 2003 Idaho Administrative Bulletin, Vol. 03-6, pages 84 through 86.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 67-5226(2), Idaho Code. An immediate danger is inherent in ephedrine products if they are sold in dosage amounts in excess of the rule or containing synthetic rather than naturally occurring ephedrine alkaloids. The fee charged under this rule is necessary to fund testing of these products to ensure compliance with the requirements of the rule. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact R. K. "Mick" Markuson, Director, at (208) 334-2356.

DATED this 26th day of June, 2003.

R.K. "Mick" Markuson, Director  
Idaho State Board of Pharmacy  
3380 Americana Terrace, Ste. 320  
P. O. Box 83720, Boise, ID 83720-0067  
Phone: (208) 334-2356 / Fax: (208) 334-3536

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### **IDAPA 27, TITLE 01, CHAPTER 03**

#### **RULES OF THE IDAHO BOARD OF PHARMACY**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-6, June 4, 2003, pages 84 through 86.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

# 2004 - Health and Welfare Senate Pending Fee Rule (Green)

## IDAPA 27 - BOARD OF PHARMACY

### 27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

#### DOCKET NO. 27-0101-0302 (FEE RULE)

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 10, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-1706, 54-1717, and 54-1719(1) and (4), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** the following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The current rule treats "preparations containing ephedrine or salts of ephedrine" as prescription drugs. The proposed rule sets out specific criteria for ephedrine products that can be sold without prescription. These criteria include maximum dosage requirements and label disclosure and warnings.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rules are necessary to protect the public health, safety, or welfare.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed is justified and necessary to avoid immediate danger and the fee is described herein:

An immediate danger is inherent in ephedrine products if they are sold in dosage amounts in excess of the rule or containing synthetic rather than naturally occurring ephedrine alkaloids. The fee charged under this rule is necessary to fund testing of these products to ensure compliance with the requirements of the rule.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because there was a need for temporary rulemaking in order to protect the public health, safety, or welfare.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary and proposed rule, contact R.K. "Mick" Markuson, Director, at (208) 334-2356.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2003.

DATED this 30th day of April, 2003.

R.K. "Mick" Markuson  
Director  
Idaho Board of Pharmacy  
3380 Americana Terrace, Ste. 320  
P. O. Box 83720  
Boise, Idaho 83720-0067  
Telephone: (208) 334-2356  
Facsimile: (208) 334-3536

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

### THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0302

#### 158. PRESCRIPTION DRUGS.

**01. Designated Drugs.** In addition to those drugs designated as prescription or legend drugs as defined in Section 54-1705(23), Idaho Code, the Idaho Board of Pharmacy includes preparations containing ephedrine or salts of ephedrine, as prescription drugs. (7-1-93)

**02. Exempt Drugs.** A product that meets all the criteria set forth in Subsection 158.02.a. is exempt from the designation as prescription drugs under Subsection 158.01 and exempt from inclusion as a Schedule II controlled substance under Section 37-2707, Idaho Code, unless it is being used or possessed as an immediate precursor of another controlled substance. (7-1-98)

**a.** Products containing a formula with a ratio of twelve and one half (12.5) milligrams ephedrine to two hundred (200) milligrams guaifenesin or twenty-five (25) milligrams ephedrine to four hundred (400) milligrams guaifenesin; and not exceeding a maximum of twenty-five (25) milligrams of ephedrine per tablet, capsule, or dose; and in addition to such formula, may include only inert or inactive ingredients or substance. (7-1-98)

**b.** Provided, however, that hemorrhoidal ointments containing not more than two tenths percent (.2%) Ephedrine Sulfate and suppositories not exceeding four (4) milligrams Ephedrine Sulfate per suppository are also exempt pursuant to Subsection 158.02. (7-1-98)

**c.** Ephedrine products that meet the following criteria are exempt from the designation as prescription drug. (7-10-02)T

**i.** The product label must state the total amount in milligrams of ephedrine or ephedrine group alkaloids in a serving or dosage unit and the amount of the product that constitutes a serving or dosage unit. (7-10-02)T

**ii.** The product label must state the maximum recommended twenty-four (24) hour serving or dosage for an adult human is one hundred (100) milligrams. (7-10-02)T

**iii.** The product label must state that consumption of more than the recommended serving or dosage for the food or dietary supplement, or that consumption of a serving or dosage at a more frequent interval than recommended, may increase the risk of adverse effects. (7-10-02)T

**iv.** The product label must contain the following warning in distinct contrast to other label printing or graphics: WARNING: Not intended for use by anyone under the age of eighteen (18). Do not use this product if you are pregnant or nursing. Consult a health care professional before using this product if you have heart disease, thyroid disease, diabetes, high blood pressure, depression or other psychiatric condition, glaucoma, difficulty in urinating, prostate enlargement, or seizure disorder, if you are using a monoamine oxidase inhibitor (MAOI) or any other prescription drug, or if you are using an over-the-counter drug containing ephedrine, pseudoephedrine or phenylpropanolamine (ingredients found in certain allergy, asthma, cough/cold, and weight control products). Discontinue use and call a health care professional immediately if you experience rapid heartbeat, dizziness, severe headache, shortness of breath or other similar symptoms. (7-10-02)T

**v.** The product label must contain the statement: "This statement has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease." (7-10-02)T

**vi.** The product must contain only naturally occurring ephedrine or ephedrine alkaloids and contain no hydrochloride or sulfate salts of ephedrine alkaloids. (7-10-02)T

**vii.** The single serving or dosage must not contain more than twenty-five (25) milligrams of ephedrine alkaloids and the single serving or dosage must not contain ephedrine alkaloids in excess of five (5) percent of the

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

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**BOARD OF PHARMACY**  
**Idaho Board of Pharmacy**

**Docket No. 27-0101-0302 (Fee Rule)**  
**Temporary and Proposed Rule**

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total capsule weight. (7-10-02)T

viii. Sale of the product to persons under the age of eighteen (18) is prohibited. (7-10-02)T

ix. The product must not be marketed, advertised or represented in any manner for the indication of stimulation, mental alertness, euphoria, ecstasy, a buzz or high, heightened sexual performance or increased muscle mass. (7-10-02)T

x. Manufacturers of the product must provide an analysis of the product to the Board of Pharmacy to ensure that the product meets the requirements of applicable laws. (7-10-02)T

xi. The manufacturer, wholesaler, or other entity which first produces the product in Idaho or first brings the product into Idaho for sale or resale must register the product with the Board using the appropriate registration form provided by the Board and provide a one hundred dollar (\$100) registration fee to the Board. Registration shall expire twelve (12) months after issuance. Registration shall be renewed for a twelve (12) month period upon receipt by the Board of a one hundred dollar (\$100) renewal fee. The requirements to register and to pay a fee shall terminate upon the federal Food and Drug Administration's publication in the Federal Register of a final rule establishing good manufacturing practices for dietary supplements or five (5) years after the effective date of this rule, whichever date occurs first. Upon any violation of this rule or other applicable law, the Board may revoke the registration. (7-10-02)T

## **2004 - Health and Welfare Senate Pending Fee Rule (Green)**

### **IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

#### **58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS**

**DOCKET NO. 58-0108-0301**

#### **NOTICE OF RULEMAKING - PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2004 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapter 1, Title 39, Idaho Code.

**DESCRIPTIVE SUMMARY:** A detailed summary of the reasons for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 6, 2003, Volume 03-8, pages 140 through 158. The agency received no public comments on the proposed rule; however, the Board revised the rule at Subsection 555.01 by removing "Effective April 15, 2002". The rulemaking record can be obtained by contacting the undersigned.

**FEE SUMMARY:** Pursuant to federal law, the state took over certification of drinking water operators in 2002. Previously, application and examination were voluntary. The rule which transferred certification authority to the state did not include fee provisions for application and testing. The program currently operates partially on fees collected for the testing and renewals and is subsidized by general fund and other program moneys. If the state is unable to collect fees for testing, the public health is placed at risk because the Department of Environmental Quality (DEQ) will not be able to certify current and new operators and verify that they are qualified to perform their duties. Imposition of the fee is authorized by Section 39-119, Idaho Code.

**SECTION 39-107D, IDAHO CODE, STATEMENT:** This rule regulates an activity not regulated by the federal government. The federal government does not regulate certification of drinking water system operators.

**GENERAL INFORMATION:** For more information about DEQ's programs and activities, visit DEQ's web site at [www.deq.state.id.us](http://www.deq.state.id.us).

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rulemaking, contact Chris Lavelle at (208)373-0502, [clavelle@deq.state.id.us](mailto:clavelle@deq.state.id.us).

DATED this 14th day of November, 2003.

Paula J. Gradwohl  
Environmental Quality Section  
Attorney General's Office  
1410 N. Hilton, Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[pgradwoh@deq.state.id.us](mailto:pgradwoh@deq.state.id.us)

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**IDAPA 58, TITLE 01, CHAPTER 08**

**IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS**

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-8, August 6, 2003, pages 140 through 158.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

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*Language That Has Been Deleted From The Original Proposed Rule  
Has Been Removed And New Language Is Shown In Italics*

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 58-0108-0301

### *SUBSECTION 555.01 (Partial Section)*

#### 555. GRANDPARENTING.

01. **Grandparenting Certificate.** ~~A grandparenting certificate may only be issued to an existing operator in responsible charge of an existing public drinking water system. The grandparenting certificate will be site specific and non-transferable and can only be issued to an operator of a system that has demonstrated their competency to the director and which, because of state law changes to meet these guidelines, must have a certified operator for the first time. The Department shall not accept applications for grandparent certification. Operators holding an existing grandparent certificate must comply with all applicable provisions of these rules in order to maintain their certification. If an operator's grandparent certification lapses, is revoked, or is otherwise not renewed, the operator will be required to meet the current standards for certification set out in these rules.~~ (4-5-00)( )

## **2004 - Health and Welfare Senate Pending Fee Rule (Green)**

### **IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

#### **58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS**

##### **DOCKET NO. 58-0108-0301 (FEE RULE)**

##### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Chapter 1, Title 39, Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this proposed rulemaking will be held as follows:

**August 27, 2003, 5:30 p.m.  
Department of Environmental  
Quality Conference Center  
1410 N. Hilton, Boise, Idaho.**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

**DESCRIPTIVE SUMMARY:** The purpose of this rulemaking is to make the following changes to the Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08, Sections 003 (Definitions) and 553 through 562 (Drinking Water Operator Certification Rules).

Conform to Section 39-119, Idaho Code, which requires that established fee standards be included in rule text wherever a fee is going to be imposed. The proposed changes will include the standards by which fees will be imposed for operator applications, certification exams, certification renewals, and course evaluations for continuing education units (CEUs).

Make the Drinking Water Operator Certification Rules consistent, where applicable, with the recently adopted changes to the Water Quality Standards and Wastewater Treatment Requirements, IDAPA 58.01.02, Sections 403 through 413 (Wastewater Operator Certification Rules). These proposed changes include making rule language consistent with the Wastewater Operator Certification Rules for the following: definitions, certification requirements for systems, addition of optional voluntary certification, separate eligibility criteria for certifying treatment operators and distribution operators, length of certification renewal cycle, number of CEUs required per certification renewal cycle, and certificate signatures.

It is equally important that federal requirements already in place in the Idaho Rules for Public Drinking Water Systems related to drinking water operator certification not be changed. Federal baseline standards were required for inclusion in the state rule by Section 1419 (b) of the federal Safe Drinking Water Act. Failure to comply with the federal provisions will result in the loss of 20% of the state's annual Drinking Water Revolving Loan Fund capitalization grant from the federal government.

Public drinking water system treatment and distribution operators, owners of public drinking water systems, water purveyors, Association of Idaho Cities, Idaho Water/Wastewater Operator Certification Board, operator training providers, industry associations, and the general public may be interested in this rulemaking.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, the Idaho Department of Environmental Quality (DEQ) intends to present the final proposal to the Board of Environmental Quality in the fall of 2003 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2004 session of the Idaho Legislature if approved by the Legislature.

**FEE SUMMARY:** Pursuant to federal law, the state took over certification of drinking water operators in 2002. Previously, application and examination were voluntary. The rule which transferred certification authority to the state did not include fee provisions for application and testing. The program currently operates partially on fees collected for the testing and renewals and is subsidized by general fund and other program moneys. If the state is unable to collect fees for testing, the public health is placed at risk because the Department of Environmental Quality (DEQ)

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

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**DEPARTMENT OF ENVIRONMENTAL QUALITY  
Idaho Rules for Public Drinking Water Systems**

**Docket No. 58-0108-0301 - Fee Rule  
Proposed Rulemaking**

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will not be able to certify current and new operators and verify that they are qualified to perform their duties. Imposition of the fee is authorized by Section 39-119, Idaho Code.

**SECTION 39-107D, IDAHO CODE, STATEMENT:** This rule regulates an activity not regulated by the federal government. The federal government does not regulate certification of drinking water system operators.

**NEGOTIATED RULEMAKING:** The text of the proposed rule has been drafted based on discussions held and concerns raised during a negotiation conducted pursuant to Section 67-5220, Idaho Code and IDAPA 04.11.01.812 - 815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, May 7, 2003, Volume 03-5, pages 26 and 27.

**GENERAL INFORMATION:** For more information about DEQ's programs and activities, visit DEQ's web site at [www.state.id.us/deq](http://www.state.id.us/deq).

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning this rulemaking, contact Chris Lavelle at (208) 373-0502 or [clavelle@deq.state.id.us](mailto:clavelle@deq.state.id.us).

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before September 3, 2003.

Dated this 25th day of June, 2003.

Paula J. Gradwohl  
Environmental Quality Section  
Attorney General's Office  
1410 N. Hilton  
Boise, Idaho 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[pgradwoh@deq.state.id.us](mailto:pgradwoh@deq.state.id.us)

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### THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0108-0301

#### **003. DEFINITIONS.**

The definitions set forth in 40 CFR 141.2, revised as of July 1, 2002, are herein incorporated by reference except for the definition of the terms "action level," "disinfection," "noncommunity water system," and "person". (5-3-03)

**01. ABC.** The abbreviation for "Association of Boards of Certification for Operating Personnel," an international organization representing water utility and pollution control certification boards. (4-5-00)

**02. Action Level.** The concentration of lead or copper in water that determines, in some cases, whether a water system must install corrosion control treatment, monitor source water, replace lead service lines, or undertake a public education program. (12-10-92)

**03. Administrator.** The Administrator of the United States Environmental Protection Agency. (4-5-00)

**04. Annual Samples.** Samples that are required once per calendar year. (12-10-92)

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

- 05. Aquifer.** A geological formation of permeable saturated material, such as rock, sand, gravel, etc., capable of yielding an economic quantity of water to wells and springs. (5-3-03)
- 06. Available.** Based on system size, complexity, and source water quality, a certified operator must be on site or able to be contacted as needed to initiate the appropriate action in a timely manner. (4-5-00)
- 07. Average Daily Demand.** The volume of water used by a system on an average day based on a one (1) year period. (12-10-92)
- 08. Backflow.** The reverse from normal flow direction in a plumbing system or water system caused by back pressure or back siphonage. (12-10-92)
- 09. Board.** The Idaho Board of Environmental Quality. (5-3-03)
- 10. Capacity.** The capabilities required of a public drinking water system in order to achieve and maintain compliance with these rules and the requirements of the federal Safe Drinking Water Act. It is divided into three (3) main elements: (4-5-00)
- a.** Technical capacity means the system has the physical infrastructure to consistently meet drinking water quality standards and treatment requirements and is able to meet the requirements of routine and emergency operations. It further means the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. Certification and training of the operator(s) is required, as appropriate, for the system size and complexity. (4-5-00)
- b.** Financial capacity means the financial resources of the water system, including an appropriate budget, rate structure, cash reserves sufficient for future needs and emergency situations, and adequate fiscal controls. (4-5-00)
- c.** Managerial capacity means that the management structure of the water system embodies the aspects of water treatment operations, including, but not limited to; (4-5-00)
- i.** Short and long range planning; (4-5-00)
- ii.** Personnel management; (4-5-00)
- iii.** Fiduciary responsibility; (4-5-00)
- iv.** Emergency response; (4-5-00)
- v.** Customer responsiveness; (4-5-00)
- vi.** Source water protection; (4-5-00)
- vii.** Administrative functions such as billing and consumer awareness; and (4-5-00)
- viii.** Ability to meet the intent of the federal Safe Drinking Water Act. (4-5-00)
- 11. Certificate.** Documentation of competency issued by the Director stating that the person (to be certified) has met requirements for a specific classification of the certification program. (4-5-00)
- 12. Community Water System.** A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. (12-10-92)
- 13. Composite Correction Program (CCP).** A systematic approach to identifying opportunities for improving the performance of water treatment and implementing changes that will capitalize on these opportunities. The CCP consists of two (2) elements: (4-5-00)

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

**a.** Comprehensive Performance Evaluation (CPE). A thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. The CPE must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report. (4-5-00)

**b.** Comprehensive Technical Assistance (CTA). The implementation phase that is carried out if the CPE results indicate improved performance potential. During the CTA phase, the system must identify and systematically address plant-specific factors. The CTA consists of follow-up to the CPE results, implementation of process control priority setting techniques, and maintaining long term involvement to systematically train staff and administrators. (4-5-00)

**14. Compositing Of Samples.** The mixing of up to five (5) samples by the laboratory. (4-5-00)

**15. Confining Layer.** A nearly impermeable subsurface stratum which is located adjacent to one (1) or more aquifers and does not yield a significant quantity of water to a well. (5-3-03)

**16. Confirmation Sample.** A sample of water taken from the same point in the system as the original sample and at a time as soon as possible after the original sample was taken. (12-10-92)

**17. Connection.** Each structure, facility, or single family residence which is connected to a water system, and which is or could be used for domestic purposes, is considered a single connection. Multi-family dwellings and apartment, condominium, and office complexes are considered single connections unless individual units are billed separately for water by the water system, in which case each such unit shall be considered a single connection. (10-1-93)

**18. Consumer.** Any person served by a public water system. (12-10-92)

**19. Consumer Confidence Report (CCR).** An annual report that community water systems must deliver to their customers. The reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. (4-5-00)

**20. Contaminant.** Any physical, chemical, biological, or radiological substance or matter in water. (12-10-92)

**21. Continuing Education Unit (CEU).** An alternate unit (to semester or quarter systems) of formal credit assignment to post-secondary training activities, which is based upon regionally or nationally established and recognized education criteria. (4-5-00)

**22. Cross Connection.** Any actual or potential connection or piping arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable water system used water, water from any source other than an approved public water system, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Cross connections include bypass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices which, or because of which "backflow" can or may occur. (10-1-93)

**23. Department.** The Idaho Department of Environmental Quality. (12-10-92)

**24. Director.** The Director of the Department of Environmental Quality or his designee. (12-10-92)

**25. Disinfection.** Introduction of chlorine or other agent or process approved by the Department, in sufficient concentration and for the time required to kill or inactivate pathogenic and indicator organisms. (5-3-03)

## 2004 - Health and Welfare Senate Pending Fee Rule (Green)

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### DEPARTMENT OF ENVIRONMENTAL QUALITY Idaho Rules for Public Drinking Water Systems

Docket No. 58-0108-0301 - Fee Rule  
Proposed Rulemaking

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**26. Disinfection Profile.** A summary of daily Giardia lamblia inactivation through the drinking water treatment plant. The procedure for developing a disinfection profile is contained in 40 CFR 141.172 and 40 CFR 141.530-141.536. (5-3-03)

**27. Distribution System.** Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s) and/or treatment facility(ies) to the consumer. Chlorination may be considered as a function of a distribution system. (~~4-5-00~~)( )

**28. Drinking Water System.** All mains, pipes, and structures through which water is obtained and distributed, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use. (12-10-92)

**29. DWIMS.** Idaho Department of Environmental Quality Drinking Water Information Management System. Replaced by SDWISS April 2001. (3-15-02)

**30. Enhanced Coagulation.** The addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment. Conventional filtration treatment is defined in 40 CFR 141.2. (5-3-03)

**31. Enhanced Softening.** The improved removal of disinfection byproduct precursors by precipitative softening. (4-5-00)

**32. Exemption.** A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only if the system demonstrates to the satisfaction of the Department that the system cannot comply due to compelling factors and the deferment does not cause an unreasonable risk to public health. (12-10-92)

**33. Fee Assessment.** A charge assessed on public drinking water systems based on a rate structure calculated by system size. (10-1-93)

**34. Filter Profile.** A graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed. (4-5-00)

**35. GAC10.** Granular activated carbon filter beds with an empty bed contact time of ten (10) minutes based on average daily flow and a carbon reactivation frequency of every one hundred eighty (180) days. (4-5-00)

**36. Groundwater System.** A public water system which is supplied exclusively by a groundwater source or sources. (12-10-92)

**37. Groundwater Under The Direct Influence Of Surface Water.** Any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as Giardia lamblia or Cryptosporidium, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence must be determined for individual sources in accordance with criteria established by the State. The State determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well construction characteristics and geology with field evaluation. (5-3-03)

**38. Haloacetic Acids (Five) (HAA5).** The sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid) rounded to two (2) significant figures after addition. (4-5-00)

**39. Health Hazards.** Any condition which creates, or may create, a danger to the consumer's health. Health hazards may consist of, but are not limited to, design, construction, operational, structural, collection, storage, distribution, monitoring, treatment or water quality elements of a public water system. See also the definition of Significant Deficiency, which refers to a health hazard identified during a sanitary survey. (5-3-03)

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40. **Inorganic.** Generally refers to compounds that do not contain carbon and hydrogen. (12-10-92)
41. **Laboratory Certification Reciprocity.** Acceptance of a laboratory certification made by another state. Laboratory reciprocity may be granted to laboratories outside of Idaho after application, proof of home state certification, and EPA performance evaluation results are submitted and reviewed. Reciprocity must be renewed after a time specified by the Idaho Laboratory Certification Officer to remain valid. (4-5-00)
42. **Log.** Logarithm to the base ten (10). (12-10-92)
43. **Maximum Daily Consumption Rate.** The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest on record. (12-10-92)
44. **Maximum Hourly Demand.** The greatest volume of water used in any hour during a one (1) year period. (12-10-92)
45. **Maximum Residual Disinfectant Level (MRDL).** A level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a public water system is in compliance with the MRDL, when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a public water system is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two (2) consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as maximum contaminant levels under Section 1412 of the Safe Drinking Water Act. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in 40 CFR 141.65, operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections. (4-5-00)
46. **Maximum Residual Disinfectant Level Goal (MRDLG).** The maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants. (4-5-00)
47. **Method Detection Limit (MDL).** The lowest concentration which can be determined to be greater than zero with ninety-nine percent (99%) confidence, for a particular analytical method. (12-10-92)
48. **New System.** Any water system that meets, for the first time, the definition of a public water system provided in Section 1401 of the federal Safe Drinking Water Act (42 U.S.C. Section 300f). This includes systems that are entirely new construction and previously unregulated systems that are expanding. (4-5-00)
49. **Noncommunity Water System.** A public water system that is not a community water system. A non-community water system is either a transient noncommunity water system or a non-transient noncommunity water system. (4-5-00)
50. **Nontransient Noncommunity Water System.** A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. (12-10-92)
51. **Nuclear Facility.** Factories, processing plants or other installations in which fissionable material is processed, nuclear reactors are operated, or spent (used) fuel material is processed, or stored. (12-10-92)
52. **Operator Certifying Entity.** An organization that contracts with the Department to provide public drinking water operator certification services. (4-5-00)
53. **Operating Experience.** The number of years spent at a drinking water system in performance of

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duties. (4-5-00)

**54. Operating Shift.** That period of time during which water system operator decisions that affect public health are necessary for proper operation of the system. (4-5-00)

**55. Operator/Owner/Purveyor Of Water/Supplier Of Water.** The person, company, corporation, association, or other organizational entity which holds legal title to the public water system, who provides, or intends to provide, drinking water to the customers and/or is ultimately responsible for the public water system operation. (4-5-00)

**56. Operator Reciprocity.** Means on a case by case basis the acceptance of certificates issued by other certification programs, which satisfy the state of Idaho requirements for operator certification. (4-5-00)

**57. Peak Hourly Flow.** The highest hourly flow during any day. (12-10-92)

**58. Person.** A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity. (12-10-92)

**59. Pesticides.** Substances which meet the criteria for regulation pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and any regulations adopted pursuant to FIFRA. For example, pesticides include, but are not limited to insecticides, fungicides, rodenticides, herbicides, and algacides. (12-10-92)

**60. Public Notice.** The notification of public water system consumers of information pertaining to that water system including information regarding water quality or compliance status of the water system. (12-10-92)

**61. Public Drinking Water System.** (4-5-00)

**a.** In General. A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator of such system, and used primarily in connection with such system, and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public drinking water system is either a "community water system" or a "noncommunity water system". (4-5-00)

**b.** Connections. (4-5-00)

**i.** In General. For purposes of paragraph a. of this Subsection, a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if: (5-3-03)

(1) The water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses); (4-5-00)

(2) The Director determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or (4-5-00)

(3) The Director determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations. (4-5-00)

**ii.** Irrigation Districts. An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall not be considered to be a public drinking water system if the system or the residential or similar users of the system comply with paragraphs b.i.(2) and b.i.(3) of this Subsection. (5-3-03)

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c. Transition Period. A supplier of water that would be a public drinking water system only as a result of modifications made to the definition of a public drinking water system by the Safe Drinking Water Act Amendments of 1996 shall not be considered a public drinking water system for purposes of the Safe Drinking Water Act until the date that is two (2) years after the date of enactment of the Safe Drinking Water Act Amendments of 1996. If a supplier of water does not serve fifteen (15) service connections (as set forth in paragraphs a. and b. of this Subsection) or twenty-five (25) people at any time after the conclusion of the two (2) year period, the supplier of water shall not be considered a public drinking water system. (5-3-03)

62. **Public Water System/Water System/System.** Means “public drinking water system”. (4-5-00)

63. **Reciprocity.** A system by which certificates issued by any other certification program are recognized as valid and equal to Idaho’s Certification Program provision. (4-5-00)

64. **Repeat Compliance Period.** Any subsequent compliance period after the initial compliance period. (12-10-92)

65. **Responsible Charge (RC).** Responsible Charge means, active, daily on-site and/or on-call responsibility for the performance of operations or active, on-going, on-site and on-call direction of employees and assistants. (4-5-00)

66. **Responsible Charge Operator.** An operator of a public drinking water system, designated by the system owner, who holds a valid certificate at a class equal to or greater than the drinking water system classification, who is in responsible charge of the public drinking water system. ( )

667. **Sampling Point.** The location in a public water system from which a sample is drawn. (12-10-92)

678. **Sanitary Defects.** Any faulty structural condition which may allow the water supply to become contaminated. (12-10-92)

689. **Sanitary Survey.** An onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water. The sanitary survey will include, but is not limited to the following elements: (4-5-00)

- a. Source; (4-5-00)
- b. Treatment; (4-5-00)
- c. Distribution system; (4-5-00)
- d. Finished water storage; (4-5-00)
- e. Pumps, pump facilities, and controls; (4-5-00)
- f. Monitoring and reporting and data verification; (4-5-00)
- g. System management and operation; and (4-5-00)
- h. Operator compliance with state requirements. (4-5-00)

6970. **SDWIS-State.** An acronym that stands for “Safe Drinking Water Information System-State Version”. It is a software package developed under contract to the U.S. Environmental Protection Agency and used by a majority of U.S. states to collect, maintain, and report data about regulated public water systems. See also the definition of DWIMS. (5-3-03)

701. **Significant Deficiency.** As identified during a sanitary survey, any defect in a system’s design,

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operation, maintenance, or administration, as well as any failure or malfunction of any system component, that the Department or its agent determines to cause, or have potential to cause, risk to health or safety, or that could affect the reliable delivery of safe drinking water. See also the definition of Health Hazards. (5-3-03)

**742. Spring.** A source of water which flows from a laterally percolating water table's intersection with the surface or from a geological fault that allows the flow of water from an artesian aquifer. (12-10-92)

**73. Substitute Responsible Charge Operator.** An operator of a public drinking water system who holds a valid certificate at a class equal to or greater than the drinking water system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. ( )

**724. Surface Water System.** A public water system which is supplied by one (1) or more surface water sources or groundwater sources under the direct influence of surface water. Also called subpart H systems in applicable sections of 40 CFR Part 141. (4-5-00)

**735. Specific Ultraviolet Absorption (SUVA).** SUVA means Specific Ultraviolet Absorption at two hundred fifty-four (254) nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wave length of two hundred fifty-four (254) nm (UV254) (in  $m^{-1}$ ) by its concentration of dissolved organic carbon (DOC) (in mg/l). (4-5-00)

**746. Total Organic Carbon (TOC).** Total organic carbon in mg/l measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two (2) significant figures. (4-5-00)

**757. Transient Noncommunity Water System.** A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. (10-1-93)

**768. Treatment Facility.** Any place(s) where a public drinking water system or nontransient noncommunity water system alters the physical or chemical characteristics of the drinking water. Chlorination may be considered as a function of a distribution system. (4-5-00)

**779. Turbidity.** A measure of the interference of light passage through water, or visual depth restriction due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. (12-10-92)

**780. Uncovered Finished Water Storage Facility.** An uncovered tank, reservoir, or other facility that is used to store water that will undergo no further treatment except residual disinfection. (5-3-03)

**7981. Unregulated Contaminant.** Any substance that may affect the quality of water but for which a maximum contaminant level or treatment technique has not been established. (12-10-92)

**82. Validated Examination.** An exam that is independently reviewed by subject matter experts to ensure that the exam is based on an operator job analysis and is relevant and related to the classification of the system or facility. ( )

**803. Variance.** A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only when the system demonstrates to the satisfaction of the Department that the raw water characteristics prevent compliance with the MCL or requirement after installation of the best available technology or treatment technique and the deferment does not cause an unreasonable risk to public health. (12-10-92)

**844. Very Small Public Drinking Water System.** A Community or Nontransient Noncommunity Public Water System that serves five hundred (500) persons or less and has no treatment other than disinfection or has only treatment which does not require any chemical treatment, process adjustment, backwashing or media regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion

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exchangers). (4-5-00)

**825. Volatile Organic Chemicals (VOCs).** VOCs are lightweight organic compounds that vaporize or evaporate easily. (10-1-93)

**836. Vulnerability Assessment.** A determination of the risk of future contamination of a public drinking water supply. (12-10-92)

**847. Waiver.** (12-10-92)

**a.** For the purposes of these rules, except Sections 550 through 552, “waiver” means the Department approval of a temporary reduction in sampling requirements for a particular contaminant. (10-1-93)

**b.** For purposes of Sections 550 through 552, “waiver” means a dismissal of any requirement of compliance. (12-10-92)

**c.** For the purposes of Section 010, “waiver” means the deferral of a fee assessment for a public drinking water system. (10-1-93)

**d.** For purposes of Subsection 5589.092 (Professional Growth Requirement), “waiver” means the deferral of the ~~annual~~ continuing education units (CEU) required for ~~annual~~ operator certification renewal for any certified operator deployed out of state or country due to active military service, when such deployment makes it impossible for the operator to accrue the required units by the ~~annual~~ certification renewal date (March 1). (5-3-03)( )

**858. Water For Human Consumption.** Water that is used by humans for drinking, bathing for purposes of personal hygiene (including hand-washing), showering, cooking, dishwashing, and maintaining oral hygiene. In common usage, the terms “culinary water”, “drinking water,” and “potable water” are frequently used as synonyms. (5-3-03)

**862. Water Main.** A pipe within a public water system which is under the control of the system operator and conveys water to two (2) or more service connections. The collection of water mains within a given water supply is called the distribution system. (5-3-03)

**8790. Water ~~System~~ Distribution Operator.** The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public drinking water distribution system in order to safeguard the public health and environment. (4-5-00)( )

**91. Water Treatment Operator.** The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public drinking water treatment facility in order to safeguard the public health and environment. ( )

### (BREAK IN CONTINUITY OF SECTIONS)

#### 553. CLASSIFICATION OF WATER SYSTEMS.

**01. Classification Requirement.** All community and nontransient noncommunity public drinking water systems will be classified based on indicators of potential health risks. (4-5-00)

**a.** ~~Classification of systems will be completed for every community and nontransient noncommunity public drinking water system using rating forms developed in accordance with~~ The Department shall develop classification criteria rating forms designed to obtain details about criteria in Subsection 553.02. (4-5-00)( )

**i.** The owner or designee of every community and nontransient noncommunity public drinking water

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system shall complete the classification criteria rating form(s) for the distribution system. ( )

ii. For any community or nontransient noncommunity public drinking water system utilizing a treatment facility(ies), the owner or designee must also complete the classification criteria rating form(s) provided by the Department for the drinking water treatment system(s). ( )

b. The Department shall review the classification criteria rating forms and classify the systems. ( )

~~bc.~~ The Department shall review ~~system~~ classifications ~~will be reviewed~~ at least every five (5) years ~~intervals and revised~~ ~~make revisions~~ to reflect changed conditions, if any. (4-5-00)( )

02. **Classification Criteria.** Community and nontransient noncommunity public drinking water ~~treatment facilities~~ and distribution systems shall be classified under a system that uses the following criteria: (4-5-00)( )

a. Complexity, size, and type of source water for treatment facilities; ~~(as determined by the guidelines established by the operator certifying entity).~~ (4-5-00)( )

b. Complexity and size of distribution systems. (4-5-00)

c. Other criteria deemed necessary to completely classify systems. (4-5-00)

d. The Department shall develop guidelines for applying the criteria set forth in Section 553. ( )

#### 554. CERTIFICATION OF WATER SYSTEM OPERATORS.

01. **System Operator Certification Requirement.** Owners of all community and nontransient noncommunity public drinking water systems must place the direct supervision of their drinking water system, including each treatment facility and/or distribution system, under the responsible charge of an operator ~~holding a valid certification equal to or greater than the classification of the drinking water system and/or distribution system.~~ (3-10-00)( )

02. **Responsible Charge Operator Certification Requirement.** ~~An Operator~~ in responsible charge ~~or equivalent of a community and or a nontransient noncommunity public drinking water systems in Idaho must hold a valid certification equal to or greater than the classification of their water system, including each treatment facility, where present, and distribution system as determined by the Department.~~ (3-10-00)( )

03. **Substitute Responsible Charge Operator Requirement.** At such times as the responsible charge operator is not available, a substitute responsible charge operator shall be designated to replace the responsible charge operator. ( )

034. **Shift Operator Requirement.** ~~Any community or nontransient noncommunity public drinking water system with multiple operating shifts must have~~ ~~A~~ a designated certified public drinking water system operator ~~must be~~ available for each operating shift. ~~An on-duty designated shift operator does not replace the requirements in Subsections 554.01 and 554.03 for responsible charge operator coverage during all operating shifts.~~ (3-10-00)( )

045. **Minimum Water Operator Certification Requirement.** All operating personnel at community and nontransient noncommunity public drinking water systems making process control/ system integrity decisions about water quality or quantity that affect public health must ~~be certified~~ hold a valid and current certificate. (3-10-00)( )

056. **Compliance Deadline.** All community and nontransient noncommunity public drinking water systems addressed in these rules shall be in compliance with these rules within two (2) years of April 15, 2000. (3-10-00)

067. **Qualifications For Certification.** To qualify for a certificate an applicant must meet requirements of employment, education, experience and examination as described in Sections 556 and 557. Applicants may also

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receive certification through reciprocity ~~upon evaluation of his or her qualifications and comparison of Idaho certification rules to those of another state on a case-by-case basis~~ as provided in Section 558. (3-10-00)(\_\_\_\_)

**078. Administration Of The Certification Program.** Administration of all aspects of the drinking water system operator certification program in Idaho shall be the responsibility of the Department. All administrative activities except enforcement may be contracted to an operator certifying entity. (3-10-00)

**089. Contractor Activities.** All administrative activities contracted to an operator certifying entity will be carried out in accordance with these rules. (3-10-00)

### 555. GRANDPARENTING.

**01. Grandparenting Certificate.** ~~A grandparenting certificate may only be issued to an existing operator in responsible charge of an existing public drinking water system. The grandparenting certificate will be site specific and non-transferable and can only be issued to an operator of a system that has demonstrated their competency to the director and which, because of state law changes to meet these guidelines, must have a certified operator for the first time.~~ Effective April 15, 2002, the Department shall not accept applications for grandparent certification. Operators holding an existing grandparent certificate must comply with all applicable provisions of these rules in order to maintain their certification. If an operator's grandparent certification lapses, is revoked, or is otherwise not renewed, the operator will be required to meet the current standards for certification set out in these rules. (4-5-00)(\_\_\_\_)

**02. Application Limitations.** ~~The system must apply for grandparenting within (2) two years of April 15, 2000.~~ **Grandparent Professional Growth Requirement.** In order to maintain an existing grandparent certification, grandparented operators must: (4-5-00)(\_\_\_\_)

**a.** In the first certification renewal cycle, complete a one (1) time training that covers all information included by the qualifying certification exam for the certification class the operator holds: (\_\_\_\_)

**b.** Submit proof of completion of the required one (1) time training; and (\_\_\_\_)

**c.** Following the first renewal cycle, the operator must meet the professional growth requirements in Subsection 559.02. (\_\_\_\_)

**03. Certification Limitations.** ~~Upon receiving a grandparenting certificate the operator shall be required to meet renewal requirements including but not limited to continuing education and renewal fee requirements.~~ (4-5-00)

**04. Plant Classification Limitations.** ~~If the plant classification of the system changes to a higher classification then the grandparenting certification is no longer valid.~~ (4-5-00)

**05. Revocation.** ~~A grandparenting certification may be suspended, reduced or revoked by the Director if the system remains in non-compliance for a period of time or in the opinion of the Director the operator is not performing their duties in a satisfactory way.~~ (4-5-00)

**06. One System Limitation.** ~~An operator who is the operator in responsible charge of more than one (1) system shall not be grandparented.~~ (4-5-00)

### 556. CERTIFICATION REQUIREMENTS FOR ~~CERTIFICATION~~ A WATER TREATMENT OPERATOR.

Individuals requesting certification shall submit an application to the Department and meet the criteria in Section 556 to qualify for a certification classification in water treatment. Applicants shall be subject to an application fee not to exceed two hundred dollars (\$200) plus the actual cost of testing. (\_\_\_\_)

**01. Employment Requirement.** Except for ~~OT~~ Operator-In-Training Classification, applicants for certification must be currently employed or working in the drinking water field. (4-5-00)(\_\_\_\_)

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**02. Examination Requirement.** Applicants must pass a written validated examination with a score of seventy percent (70%) or better. The examination will reflect different levels of knowledge, ability and judgement required for the established certification classes. Examinations will be administered in accordance with established examination procedures. (4-5-00)(\_\_\_\_)

**03. Education And Experience Requirements**~~For Public Drinking Water Operators.~~ (4-5-00)(\_\_\_\_)

**a. Basic Education and Experience Certification Requirements.** (\_\_\_\_)

**a.i.** To qualify for an Operator-In-Training Water Treatment Certificate, an operator must have a high school diploma or GED and pass an Operator-In-Training exam. After passing an Operator-In-Training exam, a "one (1) time" non-renewable certificate of "Operator-In-Training" will be issued. This certificate will be valid for three (3) years only. After working one (1) year in the field and with no further testing required, the Operator-In-Training will be issued a Class I Water Treatment Certificate upon written request to the Director with proof of twelve (12) months of operating experience in a Class I or higher water system and treatment facility. (4-5-00)(\_\_\_\_)

~~**b.** To qualify for a Very Small Public Drinking Water System certificate an operator must have a high school diploma or GED and six (6) months of acceptable experience operating a very small water system or a higher system.~~ (4-5-00)

**eii.** To qualify for a Class I certificate an operator must have a high school diploma or GED and one (1) year of acceptable operating experience ~~of in~~ a Class I or higher ~~system and/or~~ treatment facility. (4-5-00)(\_\_\_\_)

~~**iii.** To qualify for a Class II certificate an operator must have a high school diploma or GED and three (3) years of acceptable operating experience of in a Class I or higher system and/or treatment facility.~~ (4-5-00)(\_\_\_\_)

**eiv.** To qualify for a Class III certificate an operator must have a high school diploma or GED and two (2) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience ~~of in~~ a Class II or higher ~~system and/or~~ treatment facility, including two (2) years ~~of responsible charge active, daily, on-site charge of personnel or a major segment of a system in the same or next lower class.~~ (4-5-00)(\_\_\_\_)

**fv.** To qualify for a Class IV certificate an operator must have a high school diploma or GED; ~~and~~ four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience ~~of in~~ a Class III or higher ~~system and/or~~ treatment facility, including two (2) years ~~of responsible charge active, daily, on-site charge of personnel or a major segment of a system in the same or next lower class.~~ (4-5-00)(\_\_\_\_)

~~**04b.** Substituting Education for Experience.~~ Applicants may substitute education for operating and responsible charge experience as specified below: (4-5-00)

**a.i.** For ~~Very Small Water System and~~ Class I, no substitution for operating experience shall be permitted. (4-5-00)(\_\_\_\_)

**bii.** For Class II, a maximum of one and one-half (1 ½) years of post high school education in the environmental control field, engineering or related science may be substituted for one and one-half (1 ½) years of operating experience. (4-5-00)

**eiii.** For Class III and IV, a maximum of two (2) years of post high school education in the environmental control field, engineering or related science may be substituted for two (2) years of operating experience; however the applicant must still have one (1) year of ~~responsible charge experience active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class.~~ (4-5-00)(\_\_\_\_)

**dii.** Education ~~applied to~~ substituted for operating experience shall not also be applied to education requirement. (4-5-00)(\_\_\_\_)

**ev.** One (1) year of ~~education above the post high school level education, other than described in Subsections 556.03.b.ii. and 556.03.b.iii.~~ may be substituted for one (1) year experience, up to a maximum of fifty

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percent (50%) of ~~the~~ required operating or ~~responsible charge experience~~ active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class. (4-5-00)(\_\_\_\_)

~~05c.~~ Substituting Experience for Education. Where applicable, operating and responsible charge experience or operating and active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class experience may be substituted for education as specified below: (4-5-00)(\_\_\_\_)

~~a.i.~~ One (1) year of operating experience may be substituted for two (2) years of grade school with no limitation or one (1) year high school with no limitation. (4-5-00)

~~b.ii.~~ For Class III and IV, additional responsible charge experience (that exceeding the two (2) year class requirements) may be substituted for post high school education on a two (2) for one (1) basis: two (2) years additional responsible charge = equals one (1) post high school education. (4-5-00)(\_\_\_\_)

~~ed.~~ Related Substituting ~~eExperience may be substituted for eExperience.~~ Where applicable, up to one-half (½) of the operating experience requirement for Class II, III and IV: may be substituted for ~~Eexperience that may be substituted~~ includes, but is not limited to, the following: (4-5-00)(\_\_\_\_)

- i. Experience as an environmental or operations consultant; (4-5-00)
- ii. Experience in an environmental or engineering branch of federal, state, county, or local government; (4-5-00)
- iii. Experience as a wastewater collection system operator; (4-5-00)
- iv. Experience as a wastewater treatment plant operator; (4-5-00)
- v. Experience as a water distribution system operator and/or manager; (4-5-00)
- vi. Experience as a water treatment plant operator; or (4-5-00)
- vii. Experience in waste treatment operation and maintenance. (4-5-00)

~~06e.~~ Equivalency Policy for Education or Experience Substitutions. Substitutions for education or experience requirements needed to meet minimum requirements for certification will be evaluated upon the following equivalency policies: (4-5-00)(\_\_\_\_)

~~a.i.~~ High School – High School diploma = a GED or other equivalent = ~~twelve (12) years.~~ (4-5-00)(\_\_\_\_)

~~b.ii.~~ College – Thirty-five (35) credits = equals one (1) year (limited to curricula in environmental engineering, environmental sciences, water/wastewater technology, and/or related fields). (4-5-00)(\_\_\_\_)

~~c.iii.~~ Continuing Education Units (CEU) for specialized relevant operator training courses, seminars, related college courses, and other training activities. Ten (10) classroom hours = equals one (1) CEU; forty-five (45) CEUs = equals one (1) year of college. (4-5-00)(\_\_\_\_)

### 557. CERTIFICATION REQUIREMENTS FOR A WATER DISTRIBUTION OPERATOR.

Individuals requesting certification shall submit an application to the Department and meet the criteria in Section 557 to qualify for a certification classification in water distribution. Applicants shall be subject to an application fee not to exceed two hundred dollars (\$200) plus the actual cost of testing. (\_\_\_\_)

01. Employment Requirement. Except for Operator-In-Training Classification, applicants for certification must be currently employed or working in the drinking water field. (\_\_\_\_)

02. Examination Requirement. Applicants must pass a written validated examination with a score of seventy percent (70%) or better. The examination will reflect different levels of knowledge, ability and judgment

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required for the established certification classes. Examinations will be administered in accordance with established examination procedures. ( )

**03. Education And Experience Requirements.** ( )

**a. Basic Education and Experience Certification Requirements.** ( )

i. To qualify for an Operator-In-Training Water Distribution Certificate, an operator must have a high school diploma or GED and pass either a Very Small Water System Operator-In-Training exam or a Class I Operator-In-Training exam. ( )

(1) After passing a Very Small Water System Operator-In-Training exam, a "one (1) time" non-renewable certificate of "VSWWS Operator-In-Training" will be issued. This certificate will be valid for three (3) years only. After working six (6) months in the field and with no further testing required, the VSWWS Operator-In-Training will be issued a VSWWS Certificate upon written request to the Director with proof of six (6) months of operating experience in a VSWWS or higher water distribution system. ( )

(2) After passing a Class I Operator-In-Training exam, a "one (1) time" non-renewable certificate of "Class I Operator-In-Training" will be issued. This certificate will be valid for three (3) years only. After working one (1) year in the field and with no further testing required, the Class I Operator-In-Training will be issued a Class I Certificate upon written request to the Director with proof of twelve (12) months of operating experience in a Class I or higher water distribution system. ( )

ii. To qualify for a Very Small Public Drinking Water System certificate, an operator must have a high school diploma or GED and six (6) months of acceptable experience operating a very small water system or a higher distribution system. ( )

iii. To qualify for a Class I certificate, an operator must have a high school diploma or GED and one (1) year of acceptable operating experience in a Class I or higher distribution system. ( )

iv. To qualify for a Class II certificate, an operator must have a high school diploma or GED and three (3) years of acceptable operating experience. ( )

v. To qualify for a Class III certificate, an operator must have a high school diploma or GED and two (2) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience. ( )

vi. To qualify for a Class IV certificate, an operator must have a high school diploma or GED; four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience. ( )

**b. Substituting Education for Experience. Applicants may substitute education for operating and responsible charge experience as specified below:** ( )

i. For Very Small Water System and Class I, no substitution for operating experience shall be permitted. ( )

ii. For Class II, a maximum of one and one-half (1½) years of post high school education in the environmental control field, engineering or related science may be substituted for one and one-half (1½) years of operating experience. ( )

iii. For Class III and IV, a maximum of two (2) years of post high school education in the environmental control field, engineering or related science may be substituted for two (2) years of operating experience. ( )

iv. Education substituted for operating experience shall not also be applied to education requirement. ( )

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v. One (1) year of post high school education, other than described in Subsections 557.3.b.ii. and 557.03.b.iii. may be substituted for one (1) year experience, up to a maximum of fifty percent (50%) of the required operating or active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class. ( )

c. Substituting Experience for Education. Where applicable, operating and responsible charge experience or operating and active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class experience may be substituted for education as specified below: ( )

i. One (1) year of operating experience may be substituted for two (2) years of grade school with no limitation or one (1) year high school with no limitation. ( )

ii. For Class III and IV, responsible charge experience may be substituted for post high school education on a two (2) for one (1) basis: two (2) years responsible charge equals one (1) post high school education. ( )

d. Substituting Experience for Experience. Where applicable, up to one-half (½) of the operating experience requirement for Class II, III and IV may be substituted for experience that includes, but is not limited to, the following: ( )

i. Experience as an environmental or operations consultant; ( )

ii. Experience in an environmental or engineering branch of federal, state, county, or local government; ( )

iii. Experience as a wastewater collection system operator; ( )

iv. Experience as a wastewater treatment facility operator; ( )

v. Experience as a water distribution system operator and/or manager; ( )

vi. Experience as a water treatment plant operator; or ( )

vii. Experience in waste treatment operation and maintenance. ( )

e. Equivalency Policy for Education or Experience Substitutions. Substitutions for education or experience requirements needed to meet minimum requirements for certification will be evaluated upon the following equivalency policies: ( )

i. High School - High School diploma, a GED, or other equivalent. ( )

ii. College - Thirty-five (35) credits equals one (1) year (limited to curricula in environmental engineering, environmental sciences, water/wastewater technology, and/or related fields). ( )

iii. Continuing Education Units (CEU) for relevant operator training courses, seminars, related college courses, and other training activities. Ten (10) classroom hours equals one (1) CEU; forty-five (45) CEUs equals one (1) year of college. ( )

### **5578. RECIPROCITY REQUIREMENTS.**

Individuals requesting certification by reciprocity shall submit an application to the Department. The Director may waive examination requirements ~~for~~ and issue a certificate to applicants holding certificates or licenses issued by other States which have equivalent certification requirements upon presentation of proof of such licensing and credentials consistent with Idaho certification requirements. ~~A certificate of appropriate class will be issued.~~ Applicants shall be subject to an application certification fee to cover processing costs not to exceed two hundred dollars (\$200). ~~(4-5-00)~~( )

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### 5589. CERTIFICATES ~~ISSUANCE~~ AND RENEWALS ~~REQUIREMENTS~~.

**01. Certificate Issuance.** A renewal certificate signed by the Director will be issued to the applicant, designating his or her level of operating competency. ~~Upon satisfying satisfaction of the requirements of in one (1) or more of the following sections: 556, a certificate will be issued to the applicant designating his level of operating competency.~~ (4-5-00)( )

**a.** Section 555, Grandparenting; ( )

**b.** Section 556, Certification Requirements for a Water Treatment Operator; ( )

**c.** Section 557, Certification Requirements for a Water Distribution Operator; ( )

**d.** Section 558, Reciprocity Requirements; and ( )

**e.** Section 559, Certificate Issuance and Renewal Requirements. ( )

**02. Certificate Renewal.** ~~Certificates shall be subject to payment of annual renewal fees and professional growth requirements. Operators shall be subject to payment of fees and professional growth requirements in accordance with the following criteria, to qualify for certificate renewal:~~ (4-5-00)( )

**a.** Renewal fees shall not exceed two hundred dollars (\$200) for each two (2) year period. ( )

**b.** Certificates shall be valid for two (2) years, beginning on March 1 of the year of issuance. ( )

**c.** An operator shall submit satisfactory evidence of completion of approved training of a minimum of one point two (1.2) CEUs as a condition for renewal of the certificate. ( )

**d.** A Water System Operator holding more than one (1) certificate issued under these rules need only complete the training required to satisfy renewal requirements for one (1) of these water certificates. ( )

**03. Attaining Higher Certification Level.** ~~Certified Water System Operators who desire to become certified in a higher grade must satisfactorily complete the higher grade requirements before a new certificate will be issued.~~ (4-5-00)

**043. Invalidation Of Certificates.** Certificates for which ~~annual the renewal card applications fees and~~ evidence of completion of approved training, as referenced in Subsection 559.02, are not received within sixty (60) days after the expiration date ~~or which do not satisfy the professional growth requirement of Subsection 558.09 will be~~ are invalid. (4-5-00)( )

**054. Renewal Of Invalidated Certificates.** Water System Operators whose certificates are invalidated may ~~be renewed up to the certification by applying for renewal within~~ two (2) years ~~provided of the date of~~ invalidation. The application shall include appropriate proof of competency ~~is presented and applicable~~ reinstatement fees ~~are paid~~. Certificates that remain invalidated for two (2) years or more shall not be renewed. (4-5-00)( )

**065. Recertification.** Water System Operators who have failed to renew ~~or qualify for renewal of~~ invalidated certificate(s) ~~beyond~~ for two (2) years ~~or more are not eligible for renewal and must recertify and provide~~ appropriate proof of competency. (4-5-00)( )

**07. Certificate Issuance.** ~~Appropriate classification will be issued to public drinking water system operators, who on the effective date of a mandatory program hold certificates of competency attained by examination under the voluntary program.~~ (4-5-00)

**08. Certificate Signatures.** ~~Certificates shall be signed by the Chairman and Secretary of the operator certifying entity.~~ (4-5-00)

**09. Professional Growth Requirement.** ~~Renewal of a certificate shall be based on demonstrations of~~

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*continued professional growth in the field. A public drinking water system operator shall submit satisfactory evidence of completion of approved training of a minimum point six (0.6) CEUs as a condition for renewal of the certificate. The Water System Operator shall complete the required point six (0.6) CEUs after March 1 of the year preceeding the renewal year. It is the obligation of the Water System Operator to present proof of CEUs along with the renewal fee. A Water System Operator holding more than one (1) certificate issued under these rules need only complete the training required to satisfy renewal requirements for one (1) of these certificates.* (4-5-00)

**10. Grandparented Certificate Renewal.** *In the first annual certification renewal cycle, grandparented operators shall complete and show documentation of completion of training that includes all information covered by the initial certification exam.* (4-5-00)

#### **55960. CONTRACTING FOR SERVICES.**

Water systems that do not have a certified public drinking water system operator may contract with a certified public drinking water system operator or with a public drinking water system having certified operators to provide supervision. The contracted public drinking water system operator or contracted entity shall ~~be~~ **employ an operator** certified at the grade classification equal to or greater than the classification of the ~~plant or treatment or distribution~~ system. (4-5-00)( )

**01. Supervision.** For supervision required in this rule to be sufficient, the contracted certified water system operator or contracted entity shall: (4-5-00)

a. Be available on twenty-four (24) hour call and able to respond onsite upon request. (4-5-00)

b. Report the results of analyses or measurements that indicate maximum contaminant levels have been exceeded or that minimum treatment levels are not maintained and report the results of these analyses to the operator, owner, purveyor or supplier of water. (4-5-00)

c. Recommend corrective action when the results of analyses or measurements indicate maximum contaminant levels have been exceeded or minimum treatment levels are not maintained. (4-5-00)

d. Recommend that all elements of routine operation and maintenance of the water system are completed in accordance with accepted public health practice and these rules. (4-5-00)

**02. Proof Of Contract.** Proof of the contract shall be submitted to the Department. (4-5-00)

#### **5601. PENALTIES.**

The Director may assess penalties in accordance with the following provisions: (4-5-00)

**01. General Authority.** ~~Violations of these rules shall be punishable~~ The Department shall enforce these rules and seek those remedies as provided in Title 39, Chapter 1, Idaho Code. (4-5-00)( )

**02. Falsification And Forgery.** ~~Every~~ Any person who knowingly procures or offers any false or forged instrument to be filed, registered or recorded in any public office within this state, which instrument, if genuine, might be filed or registered, or recorded under any law of this state, or of the United States, is guilty of a felony. Section 18-3203, Idaho Code. (4-5-00)( )

**03. Civil Penalties.** Pursuant to Section 39-108, Idaho Code, any person who violates these rules shall be subject to a civil penalty. Each and every violation is a separate and distinct offense and for continuing violations, each day's violation is separate and distinct. (4-5-00)

#### **5642. SUSPENSION, ~~REDUCTION~~ OR REVOCATION.**

**01. Suspend, ~~Reduce~~ Or Revoke An Operator's Certificate.** The Director may suspend, ~~reduce~~ or revoke ~~the a water operator's certificate of an Operator~~ following notice and pending an opportunity for a hearing before the Board when any of the following conditions are found: (4-5-00)( )

a. ~~It is found that the Water System Operator~~ The individual holding the water certificate has engaged in misconduct in the performance of his or her operator duties such as fraud, falsification of ~~the an~~ application, or

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falsification of operating records.

~~(4-5-00)~~( )

**b.** ~~The Water System Operator is found to be grossly negligent in the performance of his duties~~  
individual holding the water certificate has been convicted of a crime involving a violation of any drinking water rule  
or statute.

~~(4-5-00)~~( )

**c.** ~~It is found that the Water System Operator~~ The individual holding the water certificate has failed to  
use reasonable care and judgement in the performance of his or her duties as described in the definition of "Water  
Distribution Operator" or the definition of "Water Treatment Operator" found in Section 003 of these rules, or the  
application of his or her knowledge and ability in the performance of his or her duties is unsatisfactory.

~~(4-5-00)~~( )

**d.** Operators receiving revocations as provided in Subsection 562.01.a. are not eligible to reapply for  
certification for a period of five (5) years from the date of revocation. Operators receiving revocations as provided in  
Subsection 562.01.b. are not eligible to reapply for certification for a period of three (3) years from the date of  
revocation.

( )

**02. Appeals.** In the event of a decision to suspend, ~~reduce~~ or revoke a certificate under the conditions  
set forth in this section, the holder of that certificate may appeal the decision as provided for in Sections 39-107(6)  
and 39-107(7), Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of  
Environmental Quality".

~~(3-15-02)~~( )

### **5623. ADVISORY GROUP.**

Stakeholder Involvement. Ongoing stakeholder involvement will be provided through the existing drinking water  
advisory committee at the Department.

(4-5-00)

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